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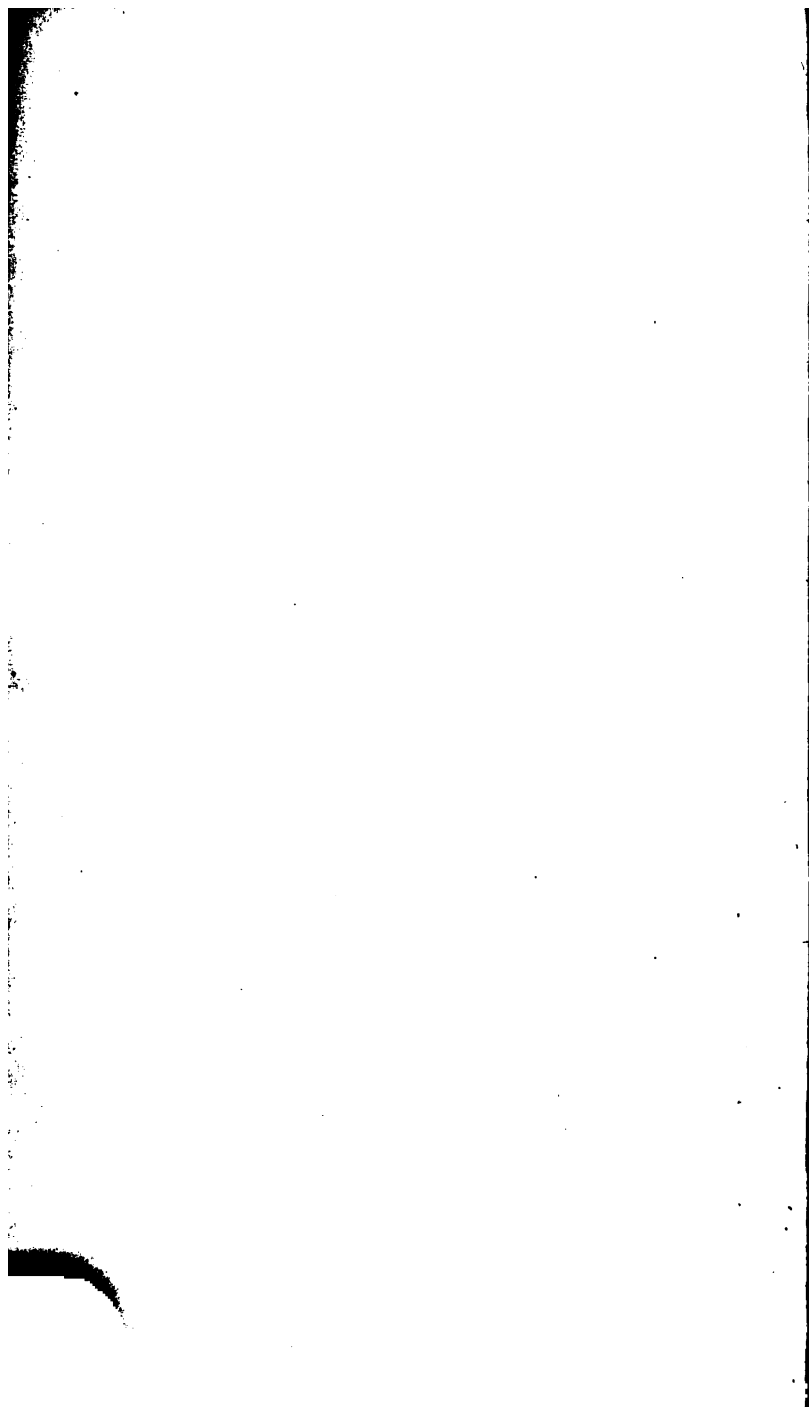
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A MANUAL OF PRACTICE
IN THE
OFFICE OF LAND REGISTRY.



A MANUAL OF PRACTICE
IN
THE OFFICE OF LAND REGISTRY:

INCLUDING

THE ACTS

TO FACILITATE THE PROOF OF TITLE TO, AND THE
CONVEYANCE OF, REAL ESTATES,

AND

FOR OBTAINING A DECLARATION OF TITLE
(25 & 26 VICT. CC. 53, 67);

ALSO

THE GENERAL RULES AND ORDERS OF THE REGISTRY;
FORMS FOR PROCEEDINGS THEREIN;

AND

THE TABLE OF FEES.

BY

HENRY GOUGH,

OF THE MIDDLE TEMPLE, ESQ., BARRISTER-AT-LAW.

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PREFACE.

THE following pages are intended as a practical guide to all persons whose professional duties may require them to take part in any proceedings under the new Statute "for the Proof of Title to, and the Conveyance of, Real Estates."

It cannot be expected that all the details of a system so new and so untried will be completely settled from the very first. But with the hearty good-will and co-operation of all who may be called to participate in working out this great experiment, there can be no doubt that the practice may very soon become simple, certain, and harmonious.

Although the Author has spared no pains to render this little Manual as complete as circumstances would allow, he is sensible that faults are

incidental to the first draft of a Treatise on an extensive legislative scheme, which has yet to be reduced to practice. When this shall have been so far effected as to supply the means of enlargement and correction, the Author hopes to offer to the Profession an enlarged and improved Edition.

To the obliging courtesy of B. S. Follett, Esq., Q.C., Registrar of the Office of Land Registry, the Author is greatly indebted for facilities afforded in the preparation of this Manual.

H. G.

4, SERLE STREET, LINCOLN'S INN.

Oct. 1862.

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A MANUAL OF PRACTICE
IN THE
OFFICE OF LAND REGISTRY.

INTRODUCTION.

EVILS TO BE REMEDIED—SKETCH OF THE IRISH AND
WEST INDIAN ACTS—OF BILLS NOT PASSED—AND
OF THE ACTS OF 1862.

THE transfer of landed property in Eng-
land has long been attended by inconveniences
through which its market value has been ma-
terially lessened. No purchaser has hitherto
been able safely to dispense with a complete
investigation of his vendor's title. This, ac-
cording to the more recent practice, involves a
full account of the transmission and enjoyment
of the property for sixty years at least, to-
gether with proper evidence of every fact alleged,
proof of the identity of every parcel of the land,
and sufficient explanations of all dubious trans-
actions.

Inconveni-
ences
attending
transfer
of land.

The evils resulting from this state of facts
are chiefly three: delay, expense, and inse-
curity. A complete investigation of the title,
or even such an investigation as, under the
special circumstances of the case, can be pru-
dently relied on, may involve a delay of months,
or even years. The expense, too, is often

Consequent
evils.

greatly disproportionate to the value of the land; and, worse than this, its amount can never be foreseen. And, after the most complete investigation, effected perhaps at an unreasonable cost, the purchaser cannot be certainly assured that his title is unimpeachable. The land may be subject, for example, to a latent settlement, or a perpetual rent-charge.

Remedy.

Though the evils before mentioned have, no doubt, been palliated by the modern practice of restrictive conditions of sale, the only effectual remedy for them is a statutory title, easy of acquirement, moderate in cost, and indefeasible.

First Irish Act.

The first general legislative measure with this object was, "An Act to facilitate the Sale of Incumbered Estates in Ireland" (11 & 12 Vict. c. 48). Numerous estates in that portion of the United Kingdom had become so burdened, that the nominal proprietors were reduced to the actual position of collectors for the incumbrancers; notwithstanding which, those proprietors were unwilling to resign their substantial rights. Through the number and variety of the incumbrances, a sale by the ordinary means was frequently impracticable. Mortgagees were, of course, unwilling to expend their capital in the improvement of land from which they derived no benefit beyond interest for the money lent by them; and nominal proprietors could not be expected, even if they had the means, to risk them in the improvement of the property for the sake of others. The result was most disastrous to the country. In this state of affairs, the above-named Act (which proposed to deal with incumbered estates through the machinery of the Irish Court of Chancery), was passed. It was, however, soon found inadequate to the

necessities of the occasion, and in the year following superseded by "An Act further to facilitate the Sale and Transfer of Incumbered Estates in Ireland" (12 & 13 Vict. c. 77), which provided for the appointment of Commissioners, with judicial powers, who were charged with the execution of the Act. Its effect was to enable an incumbered estate to be summarily sold under a judicial decree, on the application of the owner, or any incumbrancer; the due distribution of the purchase-money being provided for, and the purchaser receiving (subject to tenancies and other rights reserved) a perfect statutory title to the land, as tenant in fee-simple. The Commissioners might review their orders, and they might, in their discretion, allow an appeal, within one month, to the Irish Privy Council. The Act came into operation in October, 1849. Notwithstanding contrary expectations, and perhaps a few miscarriages, its effect was upon the whole extremely beneficial. Within five years after it was passed, it was generally acknowledged to have been crowned with wonderful success, and it became so favourite a means of conveying land, that estates were frequently incumbered for the express purpose of bringing them within its operation. The measure (originally limited to a period of three years) was renewed for four years more in 1852 (15 & 16 Vict. c. 67), and again (with some amendments) for a further period in 1853 (16 & 17 Vict. c. 74). At length, in 1858, the Commission was permanently established under the designation of "The Landed Estates Court, Ireland." ("An Act to facilitate the Sale and Transfer of Land in Ireland," 21 & 22 Vict. c. 72.) The authority of this Court commenced on the 1st day of November, 1858.

Incumbered
Estates
Commis-
sion.

Continuing
Acts.

Landed
Estates
Court,
Ireland.

Through the last-mentioned Act its powers extend to all land, whether incumbered or not; and under its provisions sales may be made on the application of a vendor, purchaser, owner, or incumbrancer. Every order of the Court is subject to review, and likewise to appeal (usually within three months) to the Court of Appeal in Chancery in Ireland, from whose decision there lies an ultimate appeal to the House of Lords.*

West Indian
Acts.

In 1854 an Act (17 & 18 Vict. c. 117) was passed for the erection of an Incumbered Estates Court in each of the West India islands, with a central Commission in London, subject, however, to a proviso that the Act should not come into operation in any colony, until the colonial Legislature should have consented to adopt it, by an Address to the Crown. By an amending Act (21 & 22 Vict. c. 96), passed in 1858, the measure was improved, and conformed as much as possible to the provisions of the Irish Acts. Some further amendments were made in 1862. The machinery thus provided has been accepted by Jamaica, St. Vincent, Tobago, and other islands, and it is now in full force under the management of two Commissioners in England, and local Commissioners in the West Indies. An appeal lies from the former to the Privy Council.†

* The latest treatise on the Irish practice is believed to be the still valuable work entitled *The Practice of the Incumbered Estates Court in Ireland, &c.* By Richard Charles Macnevin, Solicitor. Dublin: 1854. 12mo.

† Full particulars respecting the procedure of the Court, with cases decided by the learned Chief Commissioner, H. J. Stonor, Esq., will be found in *A Treatise on the West Indian Incumbered Estates Acts, &c.* By Reginald John Cust, Esq., Secretary to the Commission. London: 1859. 12mo.

Some years elapsed from the inauguration of the Irish and West India Courts, ere the principle of those institutions was sought to be established in England. In 1859 Sir Hugh Cairns, the Solicitor-General, introduced "A Bill to simplify the Title to Landed Estates," and another "to establish a Registry of Landed Estates." The former Bill proposed to institute a Landed Estates' Court, for the sale of lands, with a statutory title, and for the declaration of the title of lands not sold. It resembled, in the main, the Irish scheme, but did not embrace any compulsory power for the sale of estates that were incumbered. The latter Bill provided for the registration of lands to which a title had been obtained under the former. In consequence of the resignation of Ministers, in June, both Bills were abandoned.

Sir H.
Cairns's
Bills.

In February, 1862, Sir Hugh Cairns's Bills were again brought forward by Lord Chelmsford, but other measures of a similar kind being then before the Legislature, and finding greater favour, the former were abandoned. A Bill of Lord Cranworth's, "for the Security of Purchasers," also fell to the ground.

Lord
Chelms-
ford's Bills.

Lord Cran-
worth's Bill
for the
Security of
Purchasers.

But the Bill presented at the same time by the Lord Chancellor, and another Bill presented by Lord Cranworth, were eventually passed, and received Her Majesty's assent on the 29th July. The two latter measures form the subject of this volume.

Two Acts
passed.

By these Acts provision has been made for

Objects of
these Acts.

- I. The registration of freehold estates, with an indefeasible title.
- II. The registration of freehold estates, with a title not at first indefeasible.
- III. The registration of leaseholds, with an indefeasible title.

IV. The simplification of title by judicial sales, through the Court of Chancery.

V. The obtaining a declaration of title.

Title how
indefea-
sible.

In every instance where a title is spoken of as indefeasible, it must be understood that it is really so, only in the hands of a purchaser for valuable consideration, without notice of fraud; and that it may be subject to any registered condition—even a shifting clause.

Equitable
titles
included.

In former schemes of registration no provision was made for recording equitable titles. They were therefore either left in the power of the registered proprietor, or guarded by a complex system of caveats and restrictions, which, in practice, might have proved doth difficult and costly. Lord Westbury's Act, by including equitable titles, avoids these risks.

Registration
of freeholds
as indefea-
sible.

I. When a freehold estate is desired to be registered (under Lord Westbury's Act) as indefeasible, the title will be officially investigated, and if it be found valid, the land, with full particulars of all its limitations, will be registered. Should the owner desire to sell or mortgage, he will be able to obtain from the Registrar a certificate that he (either alone, or in conjunction with other persons named) can dispose of it with an indefeasible title. The sale or mortgage can then be at once effected by filling up a statutory form of assurance, which will be immediately recorded; and so the title will be carried on, in the register, for the benefit of all persons interested. If a tenant for life, or tenant in remainder, an incumbrancer, or any other person having a partial estate or interest in the property desires to sell or mortgage, he will be able to do so in like manner. It will no doubt be a recommendation of the adopted mode of registra-

tion, that it leaves untouched the general law of real property, and the deeds and other instruments now in use, especially the settlements ordinarily made in families possessing large estates. Such settlements, whether testamentary or otherwise, and all other dispositions of land upon the register, will be recorded as directed in the Act.

II. With regard to the registration of freehold estates, with a title not at once indefeasible, little need here be said. Though an indefeasible title may not attach for many years, the facility with which the title may be carried on will be a great advantage, and there can be little doubt that after a title has been thus for a few years upon the register, it will be readily accepted by a purchaser or mortgagee.

Registration of freeholds not as indefeasible.

III. The registration as indefeasible of leaseholds will not, of course, affect the lessor's title, except in so far as it will deprive him of a right of re-entering on account of past transactions.

Registration of leaseholds.

IV. In case it is preferred to make an indefeasible title through the Court of Chancery, by a judicial sale, Lord Westbury's Act furnishes the means of doing so. Its provisions substantially resemble those of the Act which established the Landed Estates Court in Ireland; but, in this country, application cannot be made by an incumbrancer.

Judicial sales.

V. Another mode of obtaining an indefeasible title, for the purposes of future sales or otherwise, is provided by Lord Cranworth's Act, through the medium of a declaration of title by the Court of Chancery. A title thus established may, if it be desired, be put upon the register.

Declaration of title.

The details of these legislative enactments will be found in the body of this work.

TRANSFER OF LAND.

ON THE LAND TRANSFER ACT (25 & 26 VICT. C. 53) AND
PROCEDURE UNDER IT.

Preliminary Notes.

Commence-
ment of
Act.

As the Act contains no clause fixing a period for the commencement of its operation, it came into force on the 29th July, 1862, the day on which it received the Royal assent. The Orders of the Registry are appointed to come into operation on the 15th October.

Extent of
Act.

The Act applies to "England" only (s. 1). By 20 Geo. II., c. 42, s. 3, this includes Wales and Berwick-upon-Tweed.

Interpreta-
tion of cer-
tain terms.

In the construction of the Act (except where the context or other provisions require a different construction) certain words are to be specially interpreted (s. 140).

"Person" includes the Queen, her heirs and successors; the Duke of Cornwall for the time being; also a body politic or corporate.*

"Possession" denotes also receipt of rents and profits.

"Land" comprises messuages, tenements, and hereditaments, corporeal or incorporeal.†

* In the Declaration of Title Act, 1862, the word "person" does not include the Queen, nor the Duke of Cornwall.

† In the Declaration of Title Act, "land" signifies corporeal hereditaments only.

"Incumbrance" means any legal or equitable mortgage; any money charged or secured on "land" by a trust, or by the judgment decree or order of any superior Court of law or equity; any legacy, portion, lien, or other charge, whereby a gross sum is secured to be paid; any annual or periodical charge which by the instrument creating it, or by any other instrument, is made re-purchasable on payment of a gross sum of money; and any arrear of any annual or periodical charge for payment of which arrear a sale of any "land" charged therewith might be decreed in equity (s. 140).^{*} But it is to be observed that land-tax, succession duty, tithe rent-charges, rents payable to the Crown, public rights of way, liability to repair highways by reason of tenure, rights of way, watercourses and rights of water, and other easements or servitudes, rights of common, manorial rights and franchises, and leases or agreements for leases not exceeding twenty-one years, where there is actual occupation under them, are not to be deemed "incumbrances" within the meaning of this Act (s. 27).[†]

It is scarcely necessary to observe that by virtue of Lord Brougham's Act (13 & 14 Vict. c. 21), words importing the masculine gender are to be taken as including females, and singular words as including the plural, and plural words as including the singular.

Constitution of the Registry, &c.

The Statute establishes a Registry (s. 2) to ^{The Office.}

^{*} In the Declaration of Title Act, the word "incumbrance" is not interpreted.

[†] Compare the Declaration of Title Act, sec. 29.

be called The Office of Land Registry (s. 108). This Office is to have a seal, and any instrument purporting to be sealed therewith will be admissible in evidence (s. 123). The Office is located at No. 34, Lincoln's Inn Fields, London, W.C.

Officers.

The business of the Office is to be conducted by a Registrar, with the aid of not more than three Assistant Registrars, and an indefinite number of Examiners of Title, besides clerks, messengers, and servants (ss. 108—113). Any Assistant Registrar may act for the Registrar (Order 38).

**Judges of
the Court of
Chancery.**

Certain duties being vested by the Act in the Court of Chancery, it is provided that the Lord Chancellor may from time to time assign such duties to any particular Judge or Judges of that Court, and may appoint additional clerks for the purpose of enabling such Judge or Judges duly to perform such duties (ss. 62, 121).

**Solicitors,
&c.**

Wherever the word "solicitor" is used in the Orders of the Registry, a certificated conveyancer is meant to be included. In all proceedings under this Act, solicitors of the counties palatine of Durham and Lancaster are placed on the same footing (as to lands situated in those counties) as solicitors of the High Court of Chancery (s. 135).

**Limits of
Registry.**

The operation of the Act is limited, as before observed, to England, Wales, and Berwick-upon-Tweed. The Registry is confined to estates of freehold tenure, and certain leasehold estates in freehold lands (s. 3). Incorporeal hereditaments are included by virtue of the interpretation clause (s. 140: Order 51). The kinds of leases which may be registered

are specified in another section (s. 26), as will be more fully stated in the proper place.

The Office will be open daily, except on Sundays, Christmas Days, Good Fridays, and days of general fast or thanksgiving. Its holidays and vacations will be the same as those of the Court of Chancery, subject to any orders which the Registrar from time to time may make for the regulation of the business (Order 50).

Days of
business
and holi-
days.

Registration of a Title generally, and more particularly as Indefeasible.

The persons who may apply for registration of freeholds in ordinary cases are specified in the 4th section of the Act. All owners in fee simple, whether entitled singly, jointly, or in common; all persons who have the power of acquiring the fee-simple, and all trustees for sale of the fee simple are included. The owners of the first estate of freehold and first vested estate of inheritance may be joint applicants. Purchasers of the fee simple may apply when empowered by their contract to do so, or the vendor consents. And lastly, application may be made by any persons authorised by the Court of Chancery. We have seen that the word "persons" will include bodies politic or corporate. With respect to "lands" vested in her Majesty, whether in right of the Crown or the Duchy of Lancaster or otherwise, or vested in any public officer or body in trust for the public service, it is provided that the public officer or body having the management of them, or (if there be no such officer or body) a person to be nominated by the Crown, shall represent the owner (s. 114). There is a nearly

Who may
apply.

similar provision with respect to lands belonging to the Duchy of Cornwall (s. 114). Any married woman desirous of making an application, or of acting in any other manner under the statute, is (unless entitled to her separate use and not restrained from anticipation) to be separately examined (s. 115); and where the Court of Chancery sees fit, a person may be appointed to act as her next friend (s. 116). There is a provision, too, with respect to applications and other proceedings on behalf of minors, idiots, and lunatics (s. 116). Application may be made, in any case, although the estate of the applicant may be equitable only, or though it may be subject to charges and "incumbrances" (s. 4); but no application can be made by a mere incumbrancer.

Mode of
application.

Application must be made in writing, signed by the applicant or his solicitor. The nature of the applicant's interest must be stated, and there must be a general description, in concise terms, of the property intended to be registered, with a statement whether or not the applicant claims the mines and minerals.* It must also be stated whether the registration applied for is one with or without an indefeasible title (Order 1: Form A.).

Attendance
on Registrar.

The application having been left at the Office, an appointment will be made to attend the Registrar, who will give any special directions he may think necessary for further proceedings (Order 2).

Provisions
as to costs.

The applicant, if required by the Registrar, is to secure the payment of costs by the written undertaking of himself or his solicitor,

* See p. 19.

or by deposit of money, as the Registrar may from time to time direct (s. 24 : Order 12). If application be made by any party who cannot make a valid charge on the fee simple, the Court of Chancery may order the costs of registration to be raised by mortgage of the fee (s. 132).

Together with the application, or within such time afterwards as the Registrar shall fix, an abstract of the title must be left at the Office. The abstract must be in such form, and contain such information, and be prepared in such manner in all respects as the Registrar shall from time to time approve or direct (Order 3). The names and descriptions of the parties should be set forth in full, and also the attestation clauses, and the names and descriptions of the attesting witnesses. The abstract must be accompanied by an affidavit of its veracity, setting forth the means of the deponent's knowledge, information, and belief (Order 4), which should be carefully and strictly stated. A schedule of all deeds, probates, pedigrees, certificates, receipts, and other documents to be produced in verifying the abstract and deducing the title, together with an exact copy or the original of every map or plan drawn on or referred to in any abstracted document must also be left with the abstract (Order 5). The Registrar may from time to time require a further abstract, and copies of other deeds or instruments (Order 9). It is, however, exceedingly desirable that all the evidence which exists regarding the title, should be laid before the Registrar in the first instance.

It will be necessary in all cases for all the original documents to be produced, unless such production should be impossible. If in

Delivery of
abstract, &c.

All deeds
to be pro-
duced.

any case an original document be not produced, clear evidence must be given to account for its non-production.

Consent of incumbrancers, &c., to the production of deeds, &c., to be procured.

If any of the muniments of title are in the hands of an incumbrancer or any other person not bound to produce them, the consent of such person to their production and to their being stamped as required by the Act (s. 91), must be procured (Order 6).

Map to be deposited.

An accurate map or plan of the property must be deposited in the Office when required. It must be such in all respects as shall be from time to time directed, and contain the names of all adjoining owners and occupiers (Order 7).

Schedule to be deposited.

A complete schedule or description of the property must also be deposited when and as directed. Besides full particulars of the property, it must contain a statement as to the boundaries, with the names and addresses of all adjacent owners and occupiers, and of all persons (if any), other than owners, receiving the rents of the adjacent lands, so far as the same can be ascertained. And if the lands are situated in or held of any manor, it must contain the name and address of the lord of such manor (Order 8). A form of the kind of schedule required will be found appended to the General Orders (Form B.).

Comparison of abstract with deeds, and searches.

The abstract, and all copies of documents deposited, will be compared with the originals. For this purpose the original documents may be left at the Office, or, if that is impossible or inconvenient, some place must be appointed at which they can be examined by the person nominated by the Registrar. All such searches as may be required by the Registrar will be made by his agents, and under his direction.

The costs of such comparison and searches will be settled by the Registrar, and paid by the applicant (Order 9).

The next step in order to the registration of a title is its examination, which will be conducted, under the direction of the Registrar, by one of the Examiners of Title, or one of the Conveyancing Counsel of the Court of Chancery (s. 5 : Order 10). The fees of such Examiner or Counsel will (if necessary) be settled by the Registrar, and they will be paid by the applicant (Order 9). In this examination and several subsequent proceedings, the question of "incumbrances" (s. 27) will need special consideration, lest certain important rights and liabilities not specially provided for (*e. g.*, as to the reparation of a chancel, a sea-wall, or a bridge, and rights and franchises not strictly manorial) should be unconsciously extinguished. The Examiner or Counsel will return his opinion and report upon the title to the Registrar, who will make such requisitions upon it as he may consider needful, sending them to the applicant's solicitor.

No title is to be accepted for registration as indefeasible, unless it shall appear to be such as a Court of Equity would hold to be a valid marketable title (s. 5) ; that is, such as it would compel an unwilling purchaser to accept in the absence of special contract. But this must be understood with a qualification, for it is evident that a title may be registered, though it may be subject to charges, incumbrances, conditions, or exceptions (ss. 4, 13, 16, 29). No publicity will be given to any case in which a title shall be rejected.

Examina-
tion of title.

What title
to be ac-
cepted.

Questions as
to title, how
to be
decided.

Questions as to title which may arise in the course of the investigation, may be decided by the Registrar (s. 6), notice having been given to parties interested, that they may attend and take part in the discussion (Order 14 : Form H.). Or the Registrar may refer such questions to a Judge* of the Court of Chancery (s. 6). From any such decision by the Registrar it is presumed that an appeal will lie to the Judge.

Questions
beyond the
Registrar's
inquiries.

The title will be first of all investigated, and should there be any question involving rights or interests beyond the province of the Registrar's inquiries, the application will no doubt be dismissed, at whatever stage of the inquiry such question may arise.

Identity of
"lands"
to be
established.

The identity of the "lands," with the descriptions contained in the title deeds, must be fully established (s. 10). The Registrar has power to ascertain the accuracy of the description by such inquiries as he shall see fit (s. 8), and to require it to be verified on oath (s. 10). He may require the accuracy of any description or map of lands intended to be registered to be tested on the spot by some person nominated by himself, previous notice having been given to such other persons as he may direct (Order 11). As the Act contemplates not only a warranted title, but that the parcels should also be warranted, it is obvious that the strictest care will be required to ascertain and settle the description of the property. In Ireland the Incumbered Estates Court, and now the Landed Estates Court, have employed for this purpose the officers of the Ordnance Survey.

* See p. 49.

The course there followed has been for that department to test the accuracy of the map or plan of the property, and to cause an examination and perambulation of the boundaries of the land to be made by one of their own officers. Notice of such examination is given to all the coterminous owners and occupiers, and to any other persons who appear to be interested; and any one may attend, to observe and check the proceedings of the officer. This course has been found to work so well, that not an error in respect to parcels is known to have occurred. A similar practice will, no doubt, be adopted under this Act, and a local perambulation required, after the approval of the title. It is expected that this examination of the map and perambulation of the boundaries of the property will be effected (at least for the present) through the agency of the Map Department of the Tithe, Copyhold, and Exchange Commissioners.* The expense (which, by Order 11, will be settled by the Registrar and paid by the applicant) will be very moderate.

The jurisdiction of the Registrar, or Judge (as the case may be), to decide questions of title, will ordinarily extend to undetermined questions of boundary, between the applicant and any neighbouring proprietor, but whenever such a question occurs, the parties, or either of them, may object, in writing, to any such decision of the question (s. 16).

Questions as to boundaries may be decided or left open.

If on the examination of any title it appears "Land" may be

* It may be convenient to many persons to know that correct copies of any maps in the possession of the Commissioners may be obtained at their office, St. James's-square, at a very moderate cost.

discharged from any doubtful right or "incumbrance" by payment of money into Court.

that the "land" is subject to any charge or "incumbrance," the ownership of which is not ascertained, or the right to which is doubtful, or to any doubtful right or claim, which may be estimated by money, and does not involve a right to the "land" itself, otherwise than as a security, the case may, at the applicant's request, be referred to a Judge of the Court of Chancery sitting in chambers,* who may determine whether the right or claim, and the costs of any party entitled by virtue thereof, can be justly provided for by the payment of money into Court. If the Judge be satisfied that such is the case, he is to fix the sum to be so paid in, and to give directions as to its investment, and the application of the interest. After such payment into Court, the "land" will be entirely discharged from the charge or "incumbrance" (s. 89.)

Particulars to be furnished to Registrar.

If, upon examination, the title be approved by the Registrar, the applicant is to furnish certain particulars to that officer (s. 7). These must be in writing (Order 13), and should be precisely in the form in which the applicant desires to have them registered. They will be:

- I. An exact description of the "lands" intended to be registered.
- II. A statement of the "persons," or classes, or descriptions of persons, that are or may become entitled to such "lands," and of the estates, powers, and interests that exist, or may arise, or become vested in such persons respectively.

* See p. 49.

III. A statement of the mortgages, charges, and "incumbrances," and of the "persons" entitled thereto, both at law and in equity.

Except in the case of incorporeal hereditaments, a map or plan must be deposited and kept in the Office as part of the description (s. 10). This should be done in *all* cases. Under Order 7, it is probable that the map will have been deposited already. —to include a map.

In the description of land, it is to be stated whether or not the applicant claims to be entitled to the whole or any part of the mines and minerals beneath such land; * and unless in the description mines and minerals are expressly mentioned, they are not to be deemed as included (s. 9). In case mines and minerals are expressly mentioned, the Registrar is to have special regard to them in all subsequent inquiries and proceedings (s. 9). —to state whether applicant claims minerals.

These particulars are to be examined and settled by the Registrar, who is to deliver copies of them when so settled to the applicant (s. 7) or his solicitor. Registrar to settle particulars and return copies.

If any objection be made by the applicant to the form in which the particulars have been settled by the Registrar, it must be in writing, and be left at the Office within such time as shall be appointed for that purpose; whereupon an appointment must be made for attendance before the Registrar, for him to consider, in the presence of the parties, the objection made (Order 13). Any objection not allowed by the Registrar, may, at the applicant's re- Questions as to particulars, how to be decided.

* This will have been already stated under Order 1, but, of course, the statement must be repeated.

quest, be referred to the Judge* of the Court of Chancery (s. 7).

Registrar to require notice by advertisement of intention to register.

When the description has been settled, and the Registrar is satisfied with the title shown to the property, and with the result of the inquiries made respecting it, he is to require such notice as directed by the General Orders (15, 16), to be given by advertisement of his intention to register the property with an indefeasible title, at the expiration of a period of not less than three (calendar) months from the date of such advertisement (s. 11). The advertisement will be inserted in *The London Gazette*, in at least one London and one local newspaper, and in other newspapers if the Registrar shall think fit: it will be repeated as frequently as he may direct (Order 15).

Contents of notice.

The notice is to contain a copy of the description of the property as proposed to be registered with the name and description of the applicant; and it is to state the place, time, and manner at and in which any party may show cause against registration (s. 12). It is to contain any other particular that may be considered necessary (Order 15: Form G.).

Copies to be served on certain persons.

Copies of the notice must be served upon all adjoining occupiers, upon the "persons," if any, to whom such occupiers pay rent, upon the lord of the manor, in case the "land" is situated within or held of any manor; upon every other "person" who shall appear to have or claim any right or interest in or over the "land"; and, in special cases, upon other parties (s. 12). The Registrar will require evidence that such copies have been duly served.

* See p. 49.

If any "person" object to the proposed registration, or claim that it shall be subject to any condition, qualification, exception, or reservation, he must make such objection or claim in writing, signed by himself or his solicitor, and containing an address in Great Britain at which service on him may be made. Any such objection or claim should be in the form provided for the purpose in the first schedule to the Orders of the Registry (Forms I. and J.); and it must be signed by the party making it, or by his solicitor. This objection or claim must be left at the Office before the expiration of the time limited by the advertisement, which time, however, the Registrar may enlarge if he think fit (Order 17).

Objections
and claims.

The applicant or his solicitor must search in the Office whether there be any such objection or claim, and within the time appointed for that purpose must serve every "person" making it with a notice in writing, that the objection or claim will be heard before the Registrar at the time mentioned in such notice, which must be not less than two clear days after service of the notice (Form K.). An appointment must be made by the applicant or his solicitor to bring the matter before the Registrar on the day named in the notice; and at the time mentioned in the notice, any one making such objection or claim may appear and be heard in person, or by his solicitor or counsel (s. 13: Order 18). The Registrar may himself decide upon such objections and claims, or may refer them to the Judge* of the Court of Chancery (s. 13). If the Registrar decide,

Proceedings
thereupon.

* See p. 49.

either party may appeal to the Court (s. 13). The costs, properly incurred, of all persons properly appearing upon any proceeding for the purpose of registration, may be laid upon the applicant (s. 24).

Judge may decide all questions as to priority of interests, &c.

In the event of a question (in any proceeding under this Act) respecting the priority of charges or "incumbrances," claims or interests, the Registrar may report the same to a Judge of the Court of Chancery, who is empowered to summon the parties to attend him, either in Court or at Chambers, and to decide all questions touching the priority and relative rights of the parties, as fully as if they were parties to a suit instituted for the purpose (s. 92.)

Caveat against registration.

As a security against wrongful registration, it is provided that any "person" having or claiming such an interest in any "land" as will entitle him to object to any disposition of the land without his consent, may lodge a caveat with the Registrar to the effect that he (the cautioner) is entitled to notice of any application for registration (s. 35). The caveat must contain the description and address of the cautioner, with a description of the "land" and of his interest, as well as the name and description of the "person" against the registration of whose title the caveat shall be directed. In other respects it must be in such form as the Registrar shall require, and it must be signed by the cautioner or his solicitor, and contain an address in Great Britain at which notice may be served (Form C.). If signed by a solicitor, his address must likewise be inserted (Order 20). The caveat must be supported by affidavit (s. 36), and may be lodged at any period before registration. After the

expiration of five years it must be renewed, or it will cease to be effectual (Order 20).

After the lodging of a caveat, no registration of the property to which that instrument refers will be made until notice has been served on the cautioner to appear and oppose the registration, and ten days have elapsed from the service of such notice, or until the cautioner has entered an appearance (s. 38 : Form D.).

Proceedings thereupon.

Any "person" lodging a caveat of this kind wrongfully and without reasonable cause, is liable to make, to any other "person" damaged by his doing so, such compensation as a Judge of the Court of Chancery shall deem just (s. 39). The only damage which can accrue to any person, from the mere lodging of the caveat, will be delay, for it is declared that the caveat shall have no effect whatever, except to entitle the cautioner to notice (s. 40). Its effect will resemble that of a stop order, or a *distringas* on stock.

Penalty for lodging caveat wrongfully.

Before the final registration of any "land" with an indefeasible title, the applicant and his solicitor, agent, or certified conveyancer, and such other person or persons as the Registrar shall require, must swear that all deeds, wills, and writings relating to the title of the "land," and all facts material to the title, and all charges and other dealings affecting the same, have been fully made known to the Registrar (s. 22).

Applicant, &c., must swear that all writings, dealings, &c., have been disclosed.

In all cases the applicant must produce sufficient evidence that all stamp and other duties imposed by statute have been duly paid (Order 43).

Applicant must prove that stamp and other duties have been paid.

If at any time before registration, the Registrar shall be of opinion that any further or other evidence is necessary, he may refuse

Registrar may refuse to register, till produc-

tion of
sufficient
evidence.

Mode of
registration
as inde-
feasible.

to complete the registration until it has been furnished (s. 23).

On the expiration of the time mentioned in the notice, or as soon afterwards as any objection to registration shall have been finally disallowed or withdrawn, the Registrar is to complete the registration by entering the requisite particulars in the three books or divisions of the register (s. 14), namely:

I. *The Register of Estates with an Indefeasible Title.*

II. *The Record of Title to Lands on the Registry.*

III. *The Register of Mortgages and Incumbrances.*

*Register of
Estates with
Indefeasible
Title. Entry
therein.*

The entry in the *first* of these registers is to consist of a description of the property as finally approved of by the Registrar, together with any map or plan which may be necessary; and the property so entered is to be distinguished by a number or numbers (s. 14).

"Land"
may be
entered as
one estate,
or as sepa-
rate estates.

"Land" entered in this register may, at the option of the proprietor, be registered as one estate, or as separate estates (s. 28).

*Record of
Title. Entry
therein.*

In the *second* division of the register, under the same number or numbers, are to be concisely entered an exact record of the existing estates, powers, and interests in the property described as before mentioned, and the names and description of the "persons" or classes of persons that are or may become entitled thereto respectively (s. 14). Both legal and equitable estates and interests are to be entered in this register, except charges and incumbrances, which will be recorded in a separate volume.

Names of
persons en-

The names of "persons" entitled to the

proceeds of a trust for sale of registered "land," or to any principal money to be raised under the trusts of any estate or term, are not to be entered, unless the Registrar shall think fit; but the estate of the trustees is to be defined, and the trust shortly expressed (s. 19).

titled to moneys need not be entered.

In this division of the register the Registrar may specify or define any exception, qualification, or condition affecting the interests recorded, and may reserve the rights of any "person" or class of persons, and describe any outstanding right or possibility of claim or interest, subject to which the registration is made (s. 16). When "land" is subject to any legal condition, as (for example) that it shall not be built upon, the fact is to be registered, and any subsequent dealing with the property is to be subject to the condition, which, however, may be discharged, altered, or modified, by the Court of Chancery (s. 29).

Exceptions, conditions, outstanding rights, &c., may be mentioned.

If an objection have been made to the decision of any question of boundary* under this Act, the Registrar is to specify the existence of such question, and the registration is to be made subject to it (s. 16).

Particularly as to boundaries.

If in making up, or afterwards continuing, the *Record of Title*, any question shall arise as to the legal validity or the construction or effect of any written instrument, or as to the parties entitled, or their interests or powers, or the mode in which an entry shall be made, the Registrar, or any party interested, may refer the case to a Judge† of the Court of Chancery, who will have power to decide the question, or to direct any proceedings at law or in equity,

Provision for deciding mode of entry, &c.

* See p. 17.

† See p. 49.

for that purpose ; or he may, without deciding the question, direct the mode of entry (s. 17).

Registrar
may refer
to written
instru-
ments,
printed
copies
being
deposited.

In any of the cases last referred to, the Registrar, instead of setting out or describing the estates and interests of parties in the *Record of Title*, may refer to the instrument (s. 18). But whenever this is done the applicant must deliver to the Registrar a copy of the instrument (printed and verified in the manner after mentioned*) to be preserved in the Registry, and to be, for the purposes specified, conclusive evidence of the contents of the original (s. 18).

Register of
Incum-
brances.
Entry
therein.

In the *third* division of the register, under the same number or numbers as in the other volumes, are to be entered an account of all the charges and "incumbrances" affecting the property, or the estate or interest therein, of any party mentioned in the second division of the register (s. 14). Charges and liabilities which are not "incumbrances" within the meaning of the Act, may be noticed in the register (s. 27).

Addresses
of all regis-
tered par-
ties to be
given to
Registrar.

For every "person" whose name is entered in any division of the register as a proprietor, or incumbrancer, or as entitled to receive any notice, or otherwise, a place of address in England is to be given to the Registrar (s. 124).

Deeds pro-
duced to
Registrar to
be marked.

When an estate is entered on the register, whether with an indefeasible title or otherwise, all deeds and evidences which have been produced to the Registrar are to be stamped or indorsed, so as to give notice to all afterwards inspecting them that the "land" comprised therein, or some portion of it, has been registered (s. 91: Order 6).

* See p. 39.

As soon as any "land" has been registered, the Registrar is to give notice of the registration to all parties who appear to be interested in charges and "incumbrances," and have not had notice previously (s. 30). This will rarely occur. The provision seems to have been inserted in the Act merely to prevent needless delay in the event of the discovery of an interest as to which no question can arise.

Registrar to give notice of registration to incumbrancers not previously informed.

Any "land" assured by a vesting order, under a judicial sale by the Court of Chancery in pursuance of this Act (as afterwards more particularly mentioned), may be thereby ordered to be registered, with an indefeasible title or otherwise (s. 57). A form of application for such registration is provided (Form L.).

Registration on judicial sale.

Any "land" * as to which a judicial declaration of title shall have been made under "The Declaration of Title Act, 1862," may, as soon as the time allowed for appealing under that Act shall have expired, or the declaration shall have been finally affirmed, or the appeal withdrawn, be registered under the present Act, with an indefeasible title (s. 31). In this case the persons entitled and requiring to register must apply in writing to the Registrar, and, together with their application, lodge such documents as may be necessary to complete the registration; and the application must be supported by such evidence, and be made in such manner and form, as the Registrar may require (Order 22 : Form M.).

"Land" as to which a declaration of title has been made under 25 & 26 Vict. c. 67, may be registered as indefeasible.

Subject to any exception, qualification, or condition mentioned in the *Record of Title*, and to any right or interest thereby reserved,

Effect of registration as indefeasible.

* In this case the word means corporeal hereditaments only. 25 & 26 Vict., cap. 67, sec. 48.

and to any registered charges or "incumbrances," and to all charges and interests, if any, which are not to be deemed "incumbrances" (s. 27) the "persons" originally or from time to time described in the *Record of Title* are to be, for the purposes of any sale, mortgage, or contract for valuable consideration, absolutely and indefeasibly possessed of and entitled to the estates and interests expressed in the *Record*, even as against the Crown itself. It is conceived that in *every* case of registration as indefeasible, such title will arise from the date of registration (s. 20).

Registration not to be called in question, as against a purchaser for value, by reason of informality.

No entry on the *Record of Title* is to be called in question, as against a purchaser for valuable consideration, by reason of any irregularity or informality (s. 21); though it may be on the ground of actual fraud, or notice of such fraud (s. 103).

Land registered under this Act exempt from the registries in Middlesex and Yorkshire.

The provisions of the Acts of Parliament relating to the registries in Middlesex and Yorkshire are not to be applicable to any "land" whilst it remains upon the register established by this Act (s. 104). But as the land may be taken off the register (s. 34), registration in Middlesex and Yorkshire will still be necessary.

Enrolment of deeds not affected by the Act.

It does not seem that the Act will make any alteration as to the enrolment of any deeds hitherto required to be enrolled.

Registration without an Indefeasible Title.

The Act provides for the registration of freehold "land" without an indefeasible title in the first instance, albeit with a view to its acquisition. Many of the provisions before mentioned are applicable to this case, and

need not be repeated. Its peculiarities must here be noticed.

The applicant may be any "person" who can prove, to the satisfaction of the Registrar, that he (the applicant) or some "person" under whom he claims, has been uninterruptedly in the enjoyment of the "land" sought to be registered, or receipt of its rents and profits, for ten years before the application (s. 25, cl. 1). It is conceived, however, that this will be regarded not as the limit of inquiry in any case, but as the *minimum* period of enjoyment which will be deemed sufficient for registration under this division of the Act.

The last deed or will, if any, under which the applicant derives title must be produced to the Registrar: but if the applicant claims as heir-at-law, he must prove that his ancestor was in the enjoyment of the property as owner at the time of his decease (s. 25, cl. 2).

An accurate description of the "land" intended to be registered must be furnished to the Registrar, as in the case previously treated of,* and the Registrar will take similar proceedings† for ascertaining its correctness (s. 25, cl. 3).

After this, the applicant and his solicitor, agent, or certified conveyancer, and such other persons as the Registrar shall require, must make a statutory declaration that they believe the applicant to be (either alone or jointly with some other person or persons to be described, and subject to any specified qualification, condition, or exception) well entitled to the fee-simple of the property intended to be registered (s. 25, cl. 4).

* See p. 14.

† See p. 14, &c.

Who may apply.

Evidence to be produced.

Description to be furnished and tested.

Applicant, &c., must declare that he is well entitled.

Mode of
registration
not as inde-
feasible.

If the "land" be registered, entries will be made in three volumes, as in the case of titles of the class previously mentioned.* It seems, from the tenor of the Act, that it will be entirely in the discretion of the Registrar whether he will register any property as "without an indefeasible title," or decline to do so. If an estate be so registered, he must in the *Record of Title*, define the time, event, or circumstances from and after which an indefeasible title will attach to it (s. 20, and s. 25, cl. 5).

How the
title may
be made in-
defeasible.

When the time has come, the event happened, or the circumstances exist, and such notices have been given as before mentioned, a Judge of the Court of Chancery may, if there be no valid objections, direct a transfer of the "land" to the *Register of Estates with an Indefeasible Title*, and it will be transferred accordingly (s. 25, cl. 5).

Effect of re-
gistration
not as inde-
feasible.

The effect of registration not as indefeasible will be simply to prepare the way for the acquirement of an indefeasible title at a future time. Subject to the provisions of this Act, it is not to prejudice any estate or interest created or existing at or before the date of registration (s. 25, cl. 6). The benefit to be derived from registration of such a title will be, that thenceforth the owner may deal with the property under the provisions of the Act, using the simple and inexpensive mode of transfer thereby provided, and having a record of his title kept upon the register, free from any question.

Registration of Leasehold Estates.

Of what
estates.

Leasehold estates of certain kinds, that is

* See p. 24.

to say, "lands" demised for terms of years, of which fifty years are unexpired, or for lives, of which at least two are subsisting, may be registered as indefeasible (s. 26).

The application may be made by "persons" ^{Who may apply.} having estates or interests in the leaseholds similar or correspondent to the estates and interests of the "persons" entitled to apply for the registration of freeholds (s. 26).

The manner of proceeding is to be similar ^{Proceedings.} to that before set forth with respect to freeholds, and subject to the same or the like rules and directions, and to such further directions as shall be given from time to time by General Orders (s. 26).

Notice of every application to register a leasehold is, if practicable, to be given to the lessor or grantor, or his representative; such notice being in such form, and served in such manner as the Registrar may direct (Order 19). ^{Notice to be given to lessor.}

The indefeasible title which may be obtained ^{Effect of registration.} of a leasehold, will not extend to the title of the lessor or grantor (s. 26). It is, however, probable that it will avail as against the lessor, so as, for example, to counteract a right of re-entry for condition broken.

Acts and Dealings after Registration.

Every person mentioned in the *Record of Title* as an owner of an estate or interest in "lands," will be entitled to require a document ^{Land certificates to be granted to owners.} called a Land Certificate, under the seal of the Office, and signed by the Registrar. This, it seems, will contain copies of all the entries relating to such "lands" in the *Register of Estates* and the *Record of Title*, and of such entries relating to the same "lands" in the

Register of Incumbrances as affect the estate or interest of such owner. It will state whether the "lands" are registered with an indefeasible title or not, and will exhibit such other particulars as may be material or useful for showing the nature of the owner's interest (s. 68).

And to incumbrancers.

Every "person" mentioned in the *Register of Incumbrances* as entitled to any mortgage, charge, or "incumbrance," will likewise be entitled to a land certificate, containing a description of the "lands," and the particulars of his "incumbrance" (s. 69).

Application for such certificate.

Application for a land certificate, or certificate of incumbrance, must be made in writing, the nature of the certificate required, and the number of the property upon the register being specified (Order 23 : Forms N. and O.).

At the request of holder, Registrar will compare land certificate with registers.

At the request of the holder of a land certificate, the Registrar will at any time compare it with the register books, and if there has been no alteration in the entries, will certify that fact. In case there has been any change, he will alter the land certificate, so that it may correspond with the register, and certify the change (s. 69). Application for any such comparison must be made in writing (Form P.), and such course will then be taken as the Registrar may direct (Order 24).

New ones may be granted.

The Registrar may grant a new land certificate upon the old one being given up to him (ss. 69, 119).

Special land certificates.

When a registered proprietor desires to sell, mortgage, or settle any registered property, he may obtain a special land certificate, which will be conclusive evidence of the state of his

title for fourteen days after its date, within which period no alteration will be made in the registers, unless the special land certificate be given up. A note of such certificate will be entered in the *Record of Title*, and in the *Register of Incumbrances*, as well as upon the original land certificate (s. 70). The written application for a special land certificate must, therefore, be accompanied by the original land certificate (Order 23).

Every land certificate will be evidence of the matters stated in it (s. 71), that is in the case of an ordinary certificate, down to the period of its date; in that of a special certificate, for fourteen days afterwards.

Every land certificate to be evidence.

If any land certificate be lost or destroyed, the Registrar, being satisfied of the fact, may grant a new one, which, upon the face of it, will appear to have been granted in substitution of the former. No such new certificate will be of force against any "person" who may have already derived title under the old one (s. 118). This must mean *bonâ fide*.

If land certificate be lost, a new one may be granted.

A registered proprietor being desirous to place restrictions on the transfer or charge of his property, for his own sake or at the request of some person beneficially interested in such property, may, on application to the Registrar, direct that no such transfer or charge shall take place, unless the following things or some of them are done (s. 93), namely:

Restrictions may be put on transfer or charge of registered property.

I. Unless notice of any application for a transfer or charge be sent by post to a specified address (Form R.).

II. Unless the consent of some person or persons to be named by such proprietor be given.

III. Unless some such other matter or thing be done as may be required by the proprietor, and approved by the Registrar (s. 93).

The application must be made in writing, signed by the applicant or his solicitor; it must state the "land," or charge, to which it relates, and refer to the number on the register, and state the particular restriction sought to be recorded, with such other particulars as will enable the Registrar to make the necessary entry (Order 80). Upon such an application the Registrar will make a note of the directions in the *Record of Title* or otherwise, and no transfer or charge will thenceforth be effected except in conformity with such directions, whilst they remain in force (s. 94).

How such restrictions may be modified or terminated.

The restrictions above mentioned may, however, at any time be withdrawn or modified at the instance of all parties interested; or they may be set aside by a Judge* of the Court of Chancery (s. 94). Of course, no restriction can be entered which is inconsistent with the Act, or with the rule against perpetuities. The application to withdraw or modify any restriction must be signed by the party making the same: it must state all necessary particulars, and be supported by satisfactory evidence (Order 31: Form S.).

Caution against disposition.

Any "person" interested under an agreement or otherwise in any "land" or charge registered in the name of another, may lodge a caution or caveat with the Registrar against any disposition of such land or charge, without notice to the cautioner (s. 96). This caution or caveat must be signed by the party lodging it,

* See p. 49.

or his solicitor. It must be supported by affidavit (s. 97), and contain an address in Great Britain at which such party may be served with notice, and also a description of the land or charge to which the caution applies, and his interest therein, and the number on the register (Order 32: Form E.).

After any such caution or caveat has been lodged, the Registrar is not to record any disposition of the property in question until he has served notice on the cautioner, warning him that his caution or caveat will cease to have any effect after the expiration of twenty-one days from the date of such notice (Form F.). At this period the caution or caveat will cease, unless an order to the contrary be made by the Court* of Chancery (s. 98). Such an order may be obtained in the following manner: Within the period of twenty-one days, the cautioner, or some person on his behalf (having obtained an appointment for the purpose), must appear before the Registrar, and enter into a bond to indemnify every "person" against any damage through a disposition of the property being delayed; and thereupon the Court may, if it think fit, require the Registrar to delay registering any disposition of the property for such further period as the Court may order (s. 99).

Proceedings thereupon.

Any person lodging a caveat of this kind (even, as it seems, mistakenly) will be liable to make such compensation to any person injured, as a Judge of the Court of Chancery shall deem just (s. 100).

Penalty for lodging caution injuriously.

Upon the application, in proper form, of any person interested in registered property,

Court may restrain disposition of registered property.

* See p. 49.

the Court may issue an order restraining the disposition of such property (s. 101) in such manner as the justice of the case may require (s. 102). The Registrar being served with such order will be bound by it (s. 102).

How registered "land" may be conveyed or dealt with.

Registered "land" may be conveyed, charged, or otherwise dealt with by any of the following means:

I. By a statutory disposition in any of the forms described in the Act.

II. By endorsement on the land certificate.

III. By deposit of the land certificate.

IV. By any deed, will, judgment, decree, or instrument by which land not registered might be conveyed, charged, settled, devised, dealt with, or affected; save only that no equitable mortgage or lien on registered land is to be created by a deposit of title deeds (s. 63).

By statutory disposition.

The *first* mode of assurance is "by a statutory disposition in any of the forms described in the Act," that is to say, the forms given in the schedule.* The statutory forms of conveyance are declared to be as valid and effectual as any forms of conveyance at law or in equity (ss. 65, 66). It is provided that the forms in the schedule may be modified or altered in expression to suit the circumstances of every case, and that conveyances made in such altered forms shall be equally valid and effectual (s. 67). This is presumed to mean that the forms may be employed *mutatis mutandis*, as to number, gender, and words of limitation. In another portion of the Act it is

* Except the last, which is merely a power of attorney. See p. 122.

declared that the forms in the schedule "shall be used in all cases to which they refer" (s. 126), which, no doubt, signifies that the schedule of forms (modified or altered, if need be, as before mentioned) shall be used in all cases of "statutory disposition," the first of the four modes of assurance authorised by section 63. But it is provided that the Registrar, with the sanction of the Lord Chancellor, may make such alterations in the scheduled forms as he may deem requisite, and that any altered form, when it has been published in *The London Gazette*, shall have the same force as if it had been included in the schedule to the Act (s. 136). The power of sale given by the mortgage form will be regulated by the Statute 23 & 24 Vict. c. 145, which will also confer upon the mortgagee and his personal representatives power to insure, and to appoint a receiver.

The *second* mode of assurance specified, is "by endorsement on the land certificate." By endorsement on land certificate. For this purpose, one of the scheduled forms of assurance by endorsement must be used (s. 72).

The *third* mode of assurance is "by deposit of the land certificate" (s. 63), which will create an equitable mortgage, as a deposit of title-deeds would, in the case of land not registered. Any agreement or memorandum deposited with the land certificate, will be chargeable with the same stamp duty as an agreement or memorandum deposited with title-deeds (s. 73). By deposit of land certificate.

The *fourth* mode of assurance is by deed, will, or any instrument or act, by which land not registered might be assured in law or equity. Subject to the provisions of this Act, all registered estates and instruments will still By deed, will, &c.

be governed by the general rules of law and equity, and may be dealt with accordingly (s. 33). But no unregistered estate or interest, contract, or engagement, is to prevail against the title of any subsequent purchaser for valuable consideration, duly registered (s. 74).

Court, in ordering transfer, may exercise powers of 13 & 14 Vict. c. 60.

For the purpose of authorising or compelling any transfer of registered property, the Court of Chancery may exercise all the powers of the Trustee Act, 1850, or of any Act amending the same, in relation to transfers of stock (s. 95).

Every estate or interest arising after registration to be registered.

After the registration of any "land," every estate or interest coming into existence or operation and affecting the "land" must be entered or noticed in the *Record of Title* or *Register of Incumbrances* (s. 32). The words of the Act are so comprehensive that they will include all estates, rights, and interests of every kind, legal and equitable; but no time is limited for registration.

Completion of a sale or disposition at the Office.

On occasion of any sale, mortgage, or other disposition of registered "land," or of any interest therein, the transaction may be completed at the Office (s. 64). An appointment must be made at least two days previously to the day fixed for attendance, and at the time of making such appointment the persons making it must leave at the Office a concise written statement of the nature of the proposed dealing, referring to the number of the estate upon the register. The applicant must, moreover, cause all such notices to be given, and such acts to be done as the Registrar may direct (Order 25). At the time appointed the parties, or their agents, must attend at the Office for the purpose of completing the disposition.

The statutory instrument by which the sale or disposition is effected, must be delivered to the Registrar, that he may make the proper entries in the register (s. 64). It would seem that a disposition completed at the Office must be by one of the statutory forms.

If a deed or instrument disposing of registered "land" or any estate or interest therein be executed elsewhere than at the Office, the original or a copy is to be sent by the grantee or taker to the Registrar. In case a copy be sent, the Registrar will cause it to be compared with the original, which will then be stamped or endorsed (s. 75).

If a sale or disposition be completed at any other place, deed, or copy of it, to be sent to Registrar.

In the case of any deed or instrument not testamentary, under or by virtue of which any interest is claimed in registered "land," a printed copy should be delivered to the Registrar. If the original or written copy be delivered, it will be printed by his order, but at the cost of the party registering (s. 86).

Copies of deeds delivered to Registrar to be printed.

The execution of deeds, wills, and instruments proposed to be registered, and the accuracy of copies and memorials delivered for registration, are to be proved as the Registrar shall from time to time require (s. 82).

Execution of instruments and accuracy of copies to be proved.

No dealing with registered "land" is to be entered or noticed on the register until the Registrar shall have been satisfied that all stamp duties have been duly paid (s. 88).

Stamp duties to be paid before any dealing is registered.

As soon as the original or copy of any deed or instrument has been received by the Registrar, it will be deemed to have been duly entered on the register, except in any case where a special land certificate may have been granted, when the registration will not be deemed to have been effected until the expira-

Instruments received by Registrar deemed registered, except when a special land certificate is out.

tion of fourteen days, or until the special land certificate shall have been delivered up (ss. 76, 70). An official note of reference to every deed or instrument received by the Registrar is to be actually registered in the *Record of Title* or *Register of Incumbrances* "forthwith" (s. 76). Although (as will be obvious from provisions hereafter noticed) the registration of an instrument delivered to the Registrar is to depend on several conditions, it seems that when it has been actually registered, its registration will (except in the case excepted), be considered to have taken place at the period of its delivery.

On death of registered owner, his heir, devisee, &c., to be registered in his place.

In case of doubt, Court may appoint representative.

Registration of will.

When the estate or interest of a registered proprietor is transmitted on his death to any other person, by descent, will, or representation, that other person is to be entered on the register in place of the deceased (s. 78). If there be any doubt or dispute as to such transmission, the Court of Chancery may appoint a person to be registered as the representative of the estate or interest (s. 78).

On the application of a devisee for registration of a will, or of his interest under it, the Registrar may require notice to be given to the heir-at-law (s. 79). When a will is to be registered, a memorial of it may be delivered to the Registrar, but that officer must ascertain its sufficiency by examination (s. 81).

Memorials of descents, &c., may be registered, being first printed.

Memorials of descents, deaths, marriages, and of the evidence thereof, and such other memorials and evidence of matters relating to registered property as the Registrar may deem important, are to be registered; but for this purpose they must first be printed (s. 83). In other words, any event will be registered which

forms a link in the title to any property upon the register.

In case of any transfer, conveyance, or transmission of the estate or interest of any registered owner, by deed or will, intestacy, bankruptcy, or otherwise, or in case of any estate right or interest, legal or equitable, coming into existence in any property on the register, or in any charge on such property, any person desiring to register such estate, right, or interest must make an application, signed by himself or his solicitor, for that purpose. Such application must state the name of the "person" whose property may have been so transmitted or affected, the particulars of the property, its number on the register, the nature of the new estate, right, or interest, and how the same has come into existence, together with any other particulars which may be required by the Registrar (Order 26: Form Q.).

Application for registration of any new estate or interest.

The Registrar will then require such notices to be given, and such evidence to be adduced as he may think proper (Order 27). The applicant must leave at the Office a statement, signed by himself or his solicitor, of the estate, right, or interest which he desires to be registered. This will be analogous to that required before an original registration (see p. 18); and any objection made by the applicant to its settlement by the Registrar will be proceeded on in like manner as in the case of an original registration (Order 28).

Procedure thereupon.

Notice of every instrument dealing with money due on any registered charge or "incumbrance," must be given to the Registrar, who will note the same in the *Register of Incumbrances* (s. 77). The notice given to

Notice of instruments dealing with money to be sent to Registrar.

the Registrar must be in writing, signed by the party giving it or his solicitor, and it must contain a proper and sufficient description of and reference to the property upon the register, the name of the registered owner, the date of the instrument, the names of the parties thereto, the consideration, and such other particulars as will enable the Registrar to make the necessary note or entry in the *Register of Incumbrances*, according to the Act (ss. 76, 84, 85). It must also contain an address in Great Britain, at which notices may be served (Order 29). The Registrar's note or entry will have the effect of a stop order.

When money arising from sale is not distributable, Judge may order it to be paid into Court, &c.

When any part of the money arising from the sale of a registered estate is not immediately distributable, or the parties entitled to it cannot be fully ascertained, one of the Judges* of the Court of Chancery, on any application made to him with the concurrence of the Registrar, may direct such money to be paid into Court, or otherwise invested, and may make all such further orders concerning it as circumstances may require (s. 90).

Right of inspecting registers, &c.

Subject to the directions of the General Orders of the Registry, and to the payment of the fees therein mentioned, the register books and documents deposited with the Registrar may be inspected by all persons registered as proprietors of any estates or interests, and by all persons authorised by such proprietors (ss. 15, 137). The right of inspection is, however, limited to the particular entries and documents in which the persons above mentioned are respectively interested (s. 137).

* See p. 49.

Every person having a right of inspection, may, as it seems, make copies of and extracts from the registers, and from all documents in the custody of the Registrar, so far as they relate to the property in which he has an interest (s. 137). No other person will be permitted to inspect any registers or documents, unless authorised by an order of the Court of Chancery (ss. 15, 137). The inspection, and the manner of making copies or extracts, will be regulated by the Registrar.

On the application of any person entitled under a registered instrument, or upon proof that the purpose of such instrument has been satisfied, the Registrar may remove it from the register, and cancel any official note of it (s. 87). Every such application must be signed by the applicant, and supported by any evidence which the Registrar may require; the instrument to which the application shall relate must be left at the office with the application (Order 45). If the registration has been effected under a vesting order in pursuance of a judicial sale, with notice of an "incumbrance," and the incumbrance is afterwards discharged, the procedure will be somewhat different, though to the same effect (s. 59).

Every registered proprietor of "land," with the consent of all persons appearing by the register to be interested in such land, may remove the same from the register (s. 34). The proprietor must make written application for the purpose signed by himself; and the consent of all other necessary parties must be clearly proved; and before the land can be taken off the register, every land certificate, and certificate of incumbrance which have been granted with

Satisfied
instrument
may be
taken off
register.

Land may
be taken off
register.

reference to such land, must be delivered to the Registrar (Order 37).

Of Judicial Sales.

Judicial
sales.

That portion of the Act which relates to the "simplification of title by judicial sales," confers upon the Court of Chancery a jurisdiction nearly resembling the principal functions of the Landed Estates Court in Ireland. No Orders of the Court under this Act having yet been issued, the manner of procedure is not yet completely indicated.

Judges.

The Lord Chancellor may from time to time assign the duties vested in the Court by this part of the Act to any particular Judge or Judges of the Court, and may appoint such additional clerks as may be consequently necessary (s. 62).

Who may
apply.

Any owner in fee simple of "land" in England, Wales, or Berwick-upon-Tweed, or any other person who might apply for registration of title under the 4th section of the Act, may, instead of doing so, apply to the Court (by petition or otherwise, as General Orders may direct), for a sale of his property with an indefeasible title (s. 41).

What may
be sold.

This division of the Act extends to all kinds of freehold messuages, tenements, and hereditaments, corporeal and incorporeal (ss. 41, 140); apparently also to leaseholds, but not to copyholds.

Notice of
application
to be served.

Notice of the application is to be served (before the making of any preliminary order), upon such persons as the Court shall think fit (s. 42).

Applicant to
give se-
curity for
costs.

Before making any order, the Court may require the applicant to give security for costs

(s. 44). This will not be done when the land is Crown or public property (s. 114).

The Court, by its preliminary order or orders, will provide for an examination of the title to the "land" and the ascertainment of its correct description (s. 43). Preliminary orders as to title.

It will likewise inquire as to the parties interested in the "land," as owners, incumbrancers, or otherwise (s. 43). The question of "incumbrances" will, in this case, as in that of an intended registration, need to be carefully considered.* —as to parties interested.

It will also direct notices to be given, as in the case of an application for registration of a title as indefeasible, and any other notices which it may deem necessary (s. 43). —as to notices.

The Court will moreover hear, by themselves, or their counsel or agents, any "persons" interested in the "land" who may apply to be heard (s. 43). Parties to be heard.

After this, the Court will make such order as to the sale of the "land" as may seem just (s. 43). Order for sale.

In the course of these proceedings the Court may require all persons having any deeds or evidences of title to the "land," who are bound by law to do so, to produce them to the Court, on such terms as it may think just (s. 53). Deeds to be produced.

Before the making of any vesting order, the applicant or his solicitor may be personally examined by the Court, or required to give satisfactory evidence, by affidavit, that all deeds, wills, and instruments of title, charges and incumbrances, and all facts material to the title, have been disclosed (s. 48). Applicant or his solicitor to swear that all deeds, dealings, &c., have been disclosed.

If the Court shall be of opinion that any Court may postpone

* See p. 15.

order for
want of
evidence.

further or other evidence is necessary, it will not make the vesting order until it has been furnished (s. 48).

Payment of
purchase
money.

The purchase money is to be paid as the Court may direct (s. 45); and such payment will exonerate the purchaser from liability (s. 46).

Vesting
order.

When the foregoing proceedings have been taken, the Court will make an order vesting the "land" in the purchaser. This assurance will be, according to the circumstances of the case, either free from "incumbrances," or subject to such "incumbrances" as may be specified. But in all cases it will be subject to the subsisting charges or interests which are not "incumbrances" within the meaning of the Act (ss. 27, 45). The order may (as afterwards more particularly stated) direct registration, with an indefeasible title or otherwise (s. 57). It must be duly stamped as a conveyance (s. 47).

Effect
thereof.

The vesting order will confer on the "person" to whom the "land" is vested, an estate in fee simple, subject to the "incumbrances," exceptions, and qualifications (if any) appearing in the order; and also subject to all such subsisting charges and interests as are not "incumbrances" within the meaning of the Act (s. 27), but free from all other interests, including those even of the Crown (s. 50).

Qualified
vesting
order.

If application has been made to the Court for sale, on a good title being shown for a limited period only, and such title has been duly proved, the Court may make a qualified vesting order, declaring the title to commence from a period or event to be specified (s. 51).

Effect
thereof.

Such an order will not affect any claim or

interest of earlier origin than the period or event specified; but, in all other respects, it will have the same effect as an absolute vesting order (s. 52).

When a sale of the fee-simple of any "land" is sought under the "Act to Facilitate Sales and Leases of Settled Estates," or any Act amending it, or in pursuance of any order of the Court, the Court may, on the application of any party interested, take such steps as are mentioned in this Act with reference to judicial sales; and if satisfied of the propriety of so doing, may direct the "land" to be put up for sale, with an indefeasible title, and make an order vesting it in a purchaser (s. 49).

Proceedings for sale commenced under 20 Vict. c. 120, or otherwise, may be completed under this Act.

In every case of a judicial sale under this Act, the Court will determine the rights and priorities of the "persons" entitled to the purchase-money, and will distribute the same accordingly (s. 54).

Court will distribute purchase money.

If any such purchase-money is not immediately distributable, or the parties entitled to it cannot be fully ascertained, or if the Court deems it expedient for the protection of parties interested, it may order the money to be placed to an account in trust to attend the orders of the Court, and may make all such further orders concerning it as circumstances may require (s. 55).

When money arising from sale is not distributable, Court may order its investment, &c.

When a vesting order has been made, all such deeds and evidences produced to the Court as relate exclusively to the "land" vested in the purchaser, and which he is entitled to, will be delivered to him; and all other deeds and evidences relating to the "land" which have been produced to the Court will be delivered to the parties entitled

Deeds to be marked, and then delivered to parties entitled.

to their custody. But before the deeds and evidences are so delivered, whether to the purchaser or other persons, they will be stamped or marked so as to give notice to all afterwards inspecting them of the proceedings taken by the Court (s. 56).

Registration
under vest-
ing order.

Any vesting order may direct the Registrar to enter the name of the "person" entitled in the register, as proprietor of the "land" vested, with an indefeasible or qualified title, as the case may require (s. 57). The registration of a qualified title will, of course, not affect any prior claim (s. 58). When an order of the Court shall direct the registration of any person's name as the proprietor of land, whether with an indefeasible or qualified title, the person requiring such entry must apply in writing to the Registrar, and, together with his application, lodge an office copy of the vesting order, and any other documents that may be necessary to complete the registration; and the application must be supported by such other evidence, and be made in such manner and form as the Registrar may require (Order 21).

Discharge of
"incum-
brances" so
registered.

Where "land" has been registered under a vesting order with notice of any "incumbrance," and such incumbrance has subsequently been discharged, the Registrar will, on proof of the fact, enter a memorandum of such discharge upon the register, and the incumbrance will then be deemed to be discharged (s. 59).

Compensa-
tion to per-
sons ag-
grieved.

When any vesting order has been made, or where registration with an indefeasible title has been effected under a vesting order, any person aggrieved by such order or registration

may apply to the Court to be reimbursed out of any money which may remain in Court (s. 60).

General Provisions.

The Registrar and Assistant Registrars are empowered by the Act to administer oaths and take statutory declarations (s. 117). Affidavits (and statutory declarations) may be sworn (or made) before an Assistant Registrar, or a Commissioner appointed to take affidavits in the Court of Chancery. The Registrar may require evidence to be taken *vivd voce* before him, and that any affidavits shall be sworn before himself. All affidavits (and declarations) are to be filed in the office, office copies being taken for use (Orders 33, 49). Affidavits, &c.

All documents required to be printed (ss. 18, 83, 86) are, for the sake of uniformity, to be printed upon paper or parchment of a size and description approved of by the Registrar (Order 34). Printing of documents.

All notices required by the Act or Orders of the Registry, must be under the seal of the office (Order 39). Notices.

Service of notices through the General Post Office will be deemed good service, if the Registrar shall so direct (Order 40). Substituted service on the solicitor, attorney, or agent of any party will also be deemed good if the Registrar shall so direct (Order 42). Service.

The Registrar has power to extend the time limited in any case by the Orders of the Registry (Order 44). Extension of time.

All applications to be made under this Act to the Court of Chancery may be made by summons in chambers; and any power given Applications to Court.

by the Act to the Court may (subject to any order by the Lord Chancellor assigning duties to any particular Judge or Judges*) be exercised by any Judge sitting in Chambers. But such Judge may direct any matter to be argued in Court, and may order any bill to be filed, or action to be brought that may be necessary (s. 134).

Appeals.

Any "person" who may consider himself aggrieved by a decision of the Registrar may appeal to a Judge of the Court of Chancery (s. 13). From any order of such Judge, an appeal will lie to the Lords Justices, and ultimately to the House of Lords (s. 134).

Court to have full power as to costs.

In any proceeding under the Act, the Court of Chancery will have full power and discretion as to costs (s. 61).

Fraud : jurisdiction of equity reserved.

The Act does not in any way interfere with the jurisdiction of Courts of equity on the ground of actual fraud (s. 103).

Fraud a misdemeanor.

Fraud in any transaction relating to property upon the register, or proposed to be put thereon, is declared a misdemeanor, punishable with fine and imprisonment (ss. 105, 138, 139).

Fraudulent acts void, except, &c.

Any act or thing so fraudulently done will be null and void, except as against purchasers for valuable consideration without notice (ss. 105, 138).

Criminal proceedings not to affect civil remedies.

No proceeding against any person for such fraud as a criminal, will affect any other person's remedy against the offender at law or in equity (s. 106). He will be bound, in any Court of law or equity, or in the Court of Bankruptcy, to make complete discovery; but his answers will not be admissible as evidence against him in any criminal proceeding (s. 107).

* See p. 10.

Provision is made for two sets of General Rules and Orders. General orders.

I. The Lord Chancellor, with the advice and assistance of any two Judges of the Court of Chancery, is empowered to make from time to time General Orders for carrying the purposes of the Act into effect, as regards the procedure and practice of the Court, and from time to time to rescind and alter them. These rules (none of which have yet been issued) will take effect as General Orders of the Court (s. 120). I. Orders of the Court of Chancery.

II. The Registrar, with the sanction and under the direction of the Lord Chancellor, is empowered to frame from time to time General Orders for regulating the manner of registering land, and for the due execution of the provisions of the Act as regards the Registry (s. 125). These orders may from time to time be rescinded, added to, or altered, in like manner, and are to have the same force as if they had been enacted by the Legislature (s. 126). The Orders of the Registry, which have hitherto been made, are included in the present volume. (Pp. 145, &c.) II. Orders of the Registry.

It has already been observed (p. 37), that the Registrar, with the sanction of the Lord Chancellor, may make alterations in the scheduled forms (s. 136). He is also, with like sanction, to frame and publish, as he sees occasion, forms of application, and such other forms and directions as he may deem expedient (s. 122). Those hitherto set forth will be found at p. 160. They may be observed and used, with such alterations as may be necessary to meet the circumstances of any particular case, or as the Registrar shall from time to time direct (Order 47). Registrar to issue forms, &c.

And to fix

The Registrar, with the sanction and under the direction of the Lord Chancellor, is likewise directed to determine the amount of fees to be paid on proceedings in the Registry; and, with the like sanction, he may alter them (ss. 127, 128). The Table of Fees fixed by the Registrar will be found at p. 173.

Fees to be paid by stamps.

The fees payable in respect of registration are to be received by stamps, and not in money (s. 129), and the Stamp Acts are applied to this enactment (s. 130). Every officer of the Registry who may receive any document to which a stamp shall be affixed, is to deface such stamp, and no document so stamped will be considered as accepted in the Office until the stamp shall have been defaced. It will be the duty of the person presenting the document to see that the defacement has been duly made (Order 44). Where fees are payable in respect of anything in which no written or printed document is customary, the party requiring such thing to be done must make application for the same by a short note in writing, and the stamp will be affixed thereto (Order 48).

Lord Chancellor to fix costs.

The Act likewise contains provisions as to costs. The Lord Chancellor is empowered to fix a scale of fees to be paid to the Examiners of Title, and of costs to be paid to solicitors or certificated conveyancers. The scale of costs may, if the Lord Chancellor think fit, be based on an *ad valorem* principle (s. 131).

Orders, &c., to be laid before Parliament.

All General Orders (of both classes), and scales of fees and costs, are to be laid before Parliament (s. 133).

DECLARATION OF TITLE.

ON THE DECLARATION OF TITLE ACT (25 & 26 VICT.
C. 67), AND PROCEDURE UNDER IT.

THE purpose of this Statute, which may be cited as "The Declaration of Title Act, 1862" (s. 49), is to enable persons having interests in land to obtain, in certain cases, a judicial declaration of their title, through the Court of Chancery, so as to enable them to make an indefeasible title to persons claiming under them as purchasers for valuable consideration.

Purpose of
this Act.

The Act is appointed to come into operation on the 1st January, 1863. It extends to "England" only (s. 49), but this description (as before observed) will include Wales and Berwick-upon-Tweed. Copyholds and lands of customary tenure (*i.e.* the tenant's interest in customary freehold) are excluded from its operation (s. 4).

Commence-
ment and
extent of
Act.

In the construction of this Act it is necessary to pay attention to the interpretation which (by s. 48) is placed on certain terms; especially as such interpretations do not in all respects agree with those placed upon the same terms by the Act previously noticed.* Except where the context or other provisions of the Act now under consideration require a different construction, the following terms

Interpreta-
tion of
certain
terms.

* See p. 8.

occurring in it are to be interpreted in the following manner :—

“Person” includes a body politic or corporate; but not, as in the other Act, the Queen’s Majesty.

“Possession” includes receipts of rents and profits.

“Land” includes all corporeal tenements and hereditaments not expressly excepted, but not incorporeal hereditaments, as in the other Act.

Certain claims and rights mentioned in this Act (s. 29), are not to be affected by any declaration under it. The list nearly agrees with that of charges and liabilities which by the former Act are not, in construing it, to be deemed “incumbrances;”* but “rights of common” are omitted, and the occupation under leases is not defined as “actual.”

Who may
apply.

Every “person” claiming to be entitled to “land” in possession for an estate in fee simple, either absolutely or subject to any incumbrances, estates, rights, or interests, vested or contingent, or claiming to have a power of disposing of “land” for his own benefit for an estate in fee simple in possession, either absolutely or subject as aforesaid; and every “person” entitled to apply for the registration of a title as indefeasible under the former Act, may apply to the Court of Chancery under this Act for a declaration of title (s. 1). Any two or more persons claiming to have together such estate or interest as would have enabled one person to apply, may be joint applicants (s. 3). The Act contains provisions

* See p. 9.

as to applications by married women (s. 36), and on behalf of minors, idiots, and lunatics (s. 37).

The mode in which an application must be made is by petition in a summary way for a declaration of the applicant's title (s. 1).

Each petition must be in such form as the Court by General Order* shall direct (s. 2). Petition for declaration of title.

It must contain an exact description of the lands, in their actual state, and particularly of their boundaries, and of the lands adjoining, with the names and descriptions of the owners and occupiers of such neighbouring lands, so far as conveniently may be (Sched. Order 1). And the petition must state what incumbrances, estates, rights, and interests (if any) the petitioner admits to affect his title (s. 2).

The Court may, by General Order or otherwise, require the Registrar of the Land Registry Office to be served with notice of the petition. He will thereupon be made a party to the proceedings, and the costs properly incurred by his attendance on them must be paid by the petitioner (s. 5). Court may require Registrar to be served with notice of petition.

On the hearing of the petition, and on being satisfied that the petitioner has proved such a possession and stated such a title as, if established, would entitle him to a declaration of title under this Act, the Court will order an investigation of the title, in the same way as if the petitioner had been a vendor, and had obtained a decree for specific performance of an agreement for sale (s. 6). In this investigation the identity of the lands with the parcels as described in the title deeds will be Examination of title.

* No Orders have yet been issued, except those in the schedule to the Act.

established by affidavit or otherwise as the Court may deem just (Sched. Order 2). The Court may require the petitioner to lodge a map or plan (Sched. Order 3); and, no doubt, this will be done as in the case of land sought to be registered.*

Petition
may be dis-
missed.

If, upon such investigation, the Court shall not be satisfied that the petitioner has shown such a title as it would have compelled an unwilling purchaser to accept, the petition will be dismissed, but subject to a right of appeal (s. 7).

Steps pre-
liminary to
order nisi.

If the result of the investigation be satisfactory, the Court will proceed to make a conditional order for a future declaration of title (s. 8). But before such order the petitioner must give security for costs (s. 9). He, likewise, and his solicitor, and any other person whom the Court may require, must file an affidavit that all the documents of title have been produced, or that the cause of their non-production has been fully explained, and that all facts material to the title have been disclosed: but the Court may dispense with such affidavit, or permit it to be modified (s. 10).

Order nisi.

If the result of the investigation be satisfactory, the Court will, on the conditions afterwards mentioned being complied with, make an order that upon some day, not less than three (calendar) months from the date of such order, a declaration shall be made establishing the petitioner's title, unless in the meantime cause should be shown to the contrary; and the Court may enlarge the time for so showing cause as often as it may deem proper (s. 8).

* See p. 13.

The petitioner, having obtained such a conditional order, must cause a copy of it, together with the description of the "lands," and a plan (if any), to be served upon the adjoining owners and occupiers, or on such of them, and such other persons (if any) as the Court may direct (Sched. Order 4). He must likewise cause a copy or copies of the order to be deposited in some place or places to be appointed by the Court, on or near the lands in question, to be accessible, at all reasonable times, to all persons desirous of examining the same; and notice of such deposit must be affixed in some public place or places near the lands (Sched. Order 5). Every copy of such order served on an adjoining owner or occupier must state that any "person" wishing to show cause against the making of the proposed declaration, may do so by presenting a petition in a summary way to the Court, at any time before the day appointed for making such declaration (Sched. Order 6).

Copies of order, &c., to be served on adjoining owners, &c.

The petitioner must also give notice of the order by advertisement in certain newspapers and otherwise as the Court may direct (s. 11). The 7th Order in the Schedule appears to refer to the same advertisements. If the last of the three thereby required is made within four weeks after the date of the order, the time thereby fixed for showing cause against the same will be enlarged for one calendar month, or such further time as the Court may direct (Sched. Order 8).

Notice of order to be advertised.

The Act provides for a register in which any "person" having or claiming any estate or interest in "land," will be at liberty to enter his claim, in such manner as the Lord

Register of persons claiming notice.

Chancellor shall direct, in order that such person may be entitled to receive notice of any application for a declaration of title under this Act. In case of any such claim being registered, no order will be made until the Court is satisfied that sufficient notice has been given to the claimant (s. 39).

Petition
against
declaration
of title.

At any time before the declaration of title has been made, any "person" may petition the Court in a summary way to be heard against the making of it. The Court will thereupon fix a time for hearing such petition; and, if need be, enlarge the time for making the declaration until the petition shall have been disposed of (s. 12).

Order on
such peti-
tion.

On the hearing of such petition, the Court may introduce such restrictions or qualifications in the title sought to be declared, as may be just, or may reserve any rights, or may refuse to make the declaration of title (s. 13). It is especially provided that the Court may reserve the rights of all persons under any deeds which may have been lost or destroyed (s. 14).

Declaration
of title.

If there be no sufficient reason to the contrary, the Court, after the expiration of the time limited for showing cause, and upon being satisfied that all the preliminary requisitions have been complied with, will make a declaration of the petitioner's title. This will be either such as he sought to establish by his petition, or such a title with any restrictions, reservations, or qualifications which circumstances may require (s. 15). Separate declarations may be made as to separate parts of the land referred to in the petition (s. 25).

Appeal
against

Any party may appeal within six months

after such declaration to the Court of Appeal in Chancery, and the declaration may thereupon be confirmed, varied, or annulled. If there be no such appeal, the declaration at the expiration of the six months will become final for the purposes of this Act (s. 16). Within six months after any such Order of the Court of Appeal, any party may appeal to the House of Lords, which may confirm, vary, or annul the order of the Court below. If there be no such appeal, the declaration as approved by the Court of Appeal will be final for the purposes of this Act (s. 17). If there be such an appeal, the declaration as approved by the House of Lords will be final for such purposes (s. 18).

declaration of title.

The petitioner will have similar rights of appeal to the Court of Appeal in Chancery and to the House of Lords, in case of the dismissal of his petition (s. 19).

Appeal against dismissal of petition.

The declaration of title, when it has become final, is not to be called in question on account of any irregularity in the previous proceedings (s. 20).

Declaration of title not to be set aside for informality.

A declaration of title, when it has become final, will, in favour of any purchaser for valuable consideration from or through the person whose title has been so declared, be deemed to have declared the title correctly; but it will have no other effect whatever (s. 24).

Effect of declaration of title.

Any person who has obtained a final declaration of title will be entitled to receive from the Court, on payment of the proper fees (which are not yet fixed), and on production of his title deeds for the purpose of their being stamped or marked, as General Orders shall direct, a certificate, under the seal of the Court,

Certificate of Court.

which certificate will be conclusive evidence of the facts stated in it (s. 23). Separate certificates may be given for different portions of the land comprised in the petition (s. 25).

Court may cancel original certificate, and give separate as to different portions of the "land."

If, for the purpose of a sale or other disposition of the "land" comprised in any certificate of title, or any part of it, the holder of such certificate shall desire to have separate certificates relating to separate portions of the land, the Court may, on petition by such holder, order his certificate to be cancelled, and give him separate certificates. Every such separate certificate will refer to the date of the original certificate, and have the same effect as if it had been given at such date; but no such substitution will affect the title of any person who shall previously have become entitled to the land comprised in the original certificate, or any interest in such land (s. 26).

Fresh certificate may be granted in lieu of one lost or destroyed.

In the event of the loss or destruction of a certificate of title, the Court may issue a fresh certificate in lieu of that so lost or destroyed, expressing on the face of it that it is a duplicate. No such fresh certificate will avail against any person who may have derived title under the original certificate (s. 28).

Declaration of title may be registered as an indefeasible title.

Every declaration of title made under this Act, may, at the option of the person obtaining it, be registered as an indefeasible title under the prior Act (s. 21). And in case of the substitution of several certificates for an original one (as provided in s. 26), the "land" mentioned in each separate certificate may be registered separately (s. 27).

After such registration, "lands" will be subject to

After the registration of any "land" as to which a declaration of title shall have been made, it will be subject in all respects to the

provisions of the Act previously described (s. 30). provisions of 25 & 26 Vict. c. 53.

A declaration of title obtained in the manner before mentioned, though final with respect to property in the hands of a purchaser for valuable consideration, will not be so for other purposes. At any time after such declaration, and even after registration, any "person" considering himself aggrieved, may present a petition praying that the declaration may be recalled or varied. The Court will proceed on such petition just as if it had been presented before the declaration of title was made; it may annul the declaration, order the certificate or certificates to be given up to be cancelled, or make such variations as may seem just. It may also direct the registration, if made, to be cancelled. But no such proceedings will prejudice the title of any previous purchaser for valuable consideration (s. 31) without notice of actual fraud.

On the hearing of any such petition as last mentioned, the Court may make an order restraining the person who obtained the declaration, and all persons claiming under him, except purchasers for valuable consideration, from dealing with the "land" until the petition shall have been disposed of (s. 32). Court may, on petition, recall or vary declaration of title.

All proceedings on any such petition will be subject to appeal as in the case of a petition presented before declaration of title (s. 33). In the meantime it may restrain dealing with "land."

All money received by any person on the alienation for value of any land, as to which a title shall have been declared, will be deemed to have been received in trust to invest the same in the purchase of land to be settled to the uses, and upon the trusts, to and on which Appeal on such petition.

Money received on sale of "land" as to which title has been declared, to be held in trust.

the land so alienated stood limited at the time of such alienation. But this provision will not be deemed to impose liability on any person who may have received money as a trustee, so far as relates to money duly applied by him in execution of the trusts reposed in him (s. 35).

Married women and persons under disability.

When married women are parties to proceedings under this Act, their husbands must concur, and they must be examined apart: but married women entitled to their separate use, and not restrained from anticipation, are to be deemed sole (s. 36). There are provisions as to minors, idiots, and lunatics who may be parties (s. 37). Guardians, for the purposes of the Act, may be appointed by the Court (s. 37).

Proceedings not to abate by death or change of interest.

Proceedings under this Act are not to abate by any death or transmission or change of interest; but in any such case the Court may require notices to be given to "persons" becoming interested, or make any order for discontinuing, suspending, or carrying on proceedings, or otherwise in relation thereto as may seem just (s. 38).

Costs.

The Court is empowered to order costs, either as between party and party or as between solicitor and client, to be paid by and to any "person" party to any proceeding under this Act, and to give directions as to the fund out of which such costs shall be paid (s. 34).

Fraud.

Fraud in making any false statement, or in suppressing evidence in any proceeding under this Act, is declared to be a misdemeanor, punishable with fine and imprisonment (s. 44). Fraud in forging or altering any certificate or other instrument is made felony (s. 45).

An order or declaration of title obtained by means of fraud will be null and void, except as against a purchaser for valuable consideration without notice (s. 44). Order obtained by fraud void, except, &c.

No proceeding against any person for fraud as a misdemeanor will affect any other person's remedy against the offender, at law or in equity (s. 46). No person will be entitled to refuse to make discovery in any Court of law or equity, or in the Court of Bankruptcy; but answers there received will not be admissible as evidence in any criminal proceeding (s. 47). Criminal proceedings not to affect civil remedies.

The Lord Chancellor, with the advice and assistance of any three Judges of the Court of Chancery, is empowered to make, from time to time, General Orders for carrying the purposes of this Act into effect, and from time to time to rescind and alter them (s. 40). Until such Orders have been issued, those contained in the schedule to the Act are to be deemed Orders of the Court; but they may be altered or rescinded (s. 42). All General Orders hereafter to be made are to be laid before Parliament (s. 43). Orders of the Court of Chancery.

ANNO VICESIMO QUINTO ET VICESIMO
SEXTO VICTORIÆ REGINÆ.

CAP. LIII.

An Act to facilitate the Proof of Title to, and
the Conveyance of, Real Estates. [29th
July, 1862.]

WHEREAS it is expedient to give certainty
to the title to real estates, and to facilitate
the proof thereof, and also to render the dealing
with land more simple and economical: Be it
enacted by the Queen's most excellent Majesty,
by and with the advice and consent of the
Lords Spiritual and Temporal, and Commons,
in this present Parliament assembled, and by
the authority of the same, as follows:

1. This Act (*a*) shall apply to *England* (*b*) Extent of
Act.
only.

(*a*) Such portions of other Statutes as seem cal-
culated to elucidate the present Act, will be referred
to under its corresponding sections. These Statutes
are chiefly the following:

"An Act to facilitate the Sale and Transfer of
Land in Ireland" (21 & 22 Vict. c. 72), being the
Act which established the Landed Estates Court.

"An Act to facilitate the Sale and Transfer of
Incumbered Estates in the West Indies" (17 & 18
Vict. c. 117), otherwise "The West Indian Incum-
bered Estates Act, 1854."

"An Act for obtaining a Declaration of Title" (25 & 26 Vict. c. 67), which is included in the present volume.

(b) By 20 Geo. II. c. 42, s. 3, this will include Wales and Berwick-upon-Tweed.

PART I.

AS TO THE REGISTRATION OF REAL ESTATES, AND THE TITLE THERETO.

Registry to
be estab-
lished.

2. There shall be established a Registry (a) of the title to landed estates.

(a) Called in s. 108, the Office of Land Registry.

Limits of
registry.

3. The Registry shall be confined to estates of freehold tenure, and leasehold estates (a) in freehold lands.

(a) Such as are described in s. 26.

By whom
application
for registra-
tion to be
made.

4. Application may be made (a) for registration of title, by any of the following persons, viz.,

1. The owner (b) of the fee simple (c) :
2. Persons who collectively are owners of the fee simple (d), or have the power of acquiring the same (e) :
3. Persons who have the power of appointing the fee simple (f) :
4. Trustees for sale of the fee simple (g) :
5. The owner (h) of the first estate of freehold and first vested estate (i) of inheritance :
6. Any purchaser of a fee simple, where his contract empowers him so to do, or the vendor consents :

7. Any person authorised by the Court of Chancery to make such application (k).

Application may be made, although the estate of the person applying may be subject to charges and incumbrances.

- (a) Orders 1 and 2: Form A.
- (b) Or owners (13 & 14 Vict. c. 21, s. 4).
- (c) That is, of the beneficial interest, though the legal estate may be outstanding.
- (d) Whether as joint-tenants or tenants in common. The description will likewise apply to persons whose estates collectively constitute the fee simple.
- (e) By appointment, disentailment, or otherwise.
- (f) That is, persons having such a power of appointment of the fee as they might legally execute for their own benefit.
- (g) Not mere donees of a power of sale. Trustees for sale will be able, under s. 132, to raise the costs of registration by mortgage. They will, no doubt, be required to obtain the same consents (if any) as would be required to a sale under their power in ordinary circumstances.
- (h) Or owners.
- (i) The first for the time being.
- (k) Under this clause the Court may, in its discretion, permit application to be made by any person or persons whom it may deem entitled to apply, though he or they may not be included under any of the preceding clauses.

Proceedings to obtain Registration of a Title as indefeasible.

5. On application for the registration of a title as indefeasible, the title shall be examined by the Registrar and Examiners of Title hereinafter mentioned in such manner as General

Examination of title with guarantee (a).

Orders (b) shall direct: No title shall be accepted for registration as indefeasible unless it shall appear to be such as a Court of Equity would hold to be a valid marketable title (c).

(a) The marginal note refers to the Bill as it originally stood. Before its alteration in Committee, it contained a provision for a guarantee of interests not discovered before registration, by a charge on the Consolidated Fund.

(b) Orders 9 and 10.

(c) See the Declaration of Title Act, ss. 7 and 8.

Reference of
questions of
title.

6. Any question, doubt, or dispute as to any matter of title that may arise in the course of such investigation may be referred to such Judge of the Court of Chancery as the Lord Chancellor shall appoint to hear applications under this Act (a).

(a) See s. 121. From his decision there will be an appeal, s. 134.

Particulars
to be fur-
nished to
Registrar.

7. If the title shall (either absolutely or subject (a) as aforesaid) appear to be good and marketable, the applicants shall furnish to the Registrar, and he shall examine and settle for the purposes of registration (b):

First, an exact description of the lands (c) to be registered:

Secondly, a statement of the persons (d), or classes or descriptions of persons, that are or may become entitled to such lands, and of the estates, powers, and interests that exist, or may arise or become vested in such persons respectively:

Thirdly, a statement of the mortgages, charges, and incumbrances (e) affecting

such lands or any part thereof, and of the persons entitled thereto, both at law and in equity :

Copies of such description and statements when settled by the Registrar shall be delivered back to the applicants: Any objection to the same or to any part thereof, if not allowed by the Registrar, shall, at the request of the applicants, be referred to and decided by the Judge of the Court of Chancery.

(a) Subject to charges and incumbrances: s. 4.

(b) Order 13.

(c) Messuages, tenements, and hereditaments, corporeal or incorporeal: s. 140. See Form B.

(d) The word "person" includes the Queen, the Duke of Cornwall, and every corporation, s. 140.

(e) As to what are, and what are not, "incumbrances," see ss. 27 and 140.

8. If required by the Registrar, the description of the land furnished by the applicant shall be verified by his own oath or the oaths of persons having full means of information. May be verified on oath.

9. It shall be stated in the description of the land to be so furnished by the applicant whether he does or does not claim to be entitled to all or any part of the mines and minerals under such land, and unless in such description mines or minerals shall be expressly mentioned, they shall be deemed not to be included therein (a); and if in such description mines or minerals shall be expressly mentioned, it shall be the duty of the Registrar to have especial regard thereto in all subsequent inquiries to be made by him with respect to such lands, and in the investigation Claim to mines and minerals.

of the title thereto, and also in the service of such notices as hereinafter mentioned.

(a) Compare the Railways Clauses Consolidation Act, 1845 (8 Vict. c. 20), s. 77.

Identity of
lands to be
established.

10. The identity of the lands with the parcels or descriptions contained in the title deeds shall be fully established, and the Registrar shall have power by such inquiries as he shall think fit to ascertain the accuracy of the description and the quantities and boundaries of the lands (a); and, except in the case of incorporeal hereditaments, a map or plan (b) shall be made and deposited as part of the description.

(a) Order 11: see the Irish Act, s. 31.

(b) Order 7.

Notice of
intention to
register.

11. When such description has been settled, and the Registrar is satisfied with the title shown to the land, and with the result of the inquiries made, he shall require such notices as General Orders shall direct (a) to be given by public advertisement of his intention to register such land with an indefeasible title, at the expiration of a period not less than three months from the date of such advertisement (b).

(a) Order 15: Form G.

(b) Compare the Declaration of Title Act, s. 11.

Contents of
notice.

12. Such notice shall contain a copy of the description of the land as proposed to be registered, and the names and descriptions of the applicants for registration: A copy of such notice shall be served on every adjoining occupier, and the person (if any) to whom such occupier pays rent, and on the lord of the manor in any case in which the lands are situate within or held of any manor, and also

on every person not having already had notice of the application, who shall appear to have or claim any estate or interest in or right over the land, or any part thereof, and on such other persons as under the special circumstances of each case shall be deemed necessary.

The notice shall also state the place, time, and manner at and in which any party may be heard to show cause against such registration.

13. At the time and place named in the notice, or at such time and place as General Orders (a) shall direct, any person may attend and show cause before the Registrar, by affidavit or otherwise, against the registration, or claim that the same should be subject to any conditions or reservations; the Registrar may decide on such objection or claim, or may refer the same to the Judge of the Court of Chancery: if the Registrar decide, either party may appeal from his decision to the said Court, in manner hereinafter directed (b). Cause may be shown against registration.

(a) Orders 17 and 18: Forms I., J., and K.

(b) See s. 134.

14. If at the expiration of the time named in such notice there shall be no objection to the registration applied for or none allowed, and no appeal pending, or, if any appeal shall be then pending, as soon as any objection to such registration shall have been finally disallowed by the Court of Appeal, or the appeal withdrawn, the Registrar shall complete such registration in manner following: that is to say, Completion of registration.

First, the Registrar shall enter in a book to be called "The Register of Estates with an indefeasible Title" such descrip-

tion of the estate as shall be finally approved of, and shall annex thereto any map or plan which shall be deemed necessary, and shall distinguish the estate so entered by a particular number or numbers, and the entry shall refer to another book to be entitled "The Record of Title to Lands on the Registry:"

Secondly, in the last-mentioned book, under the same number or numbers, shall be entered in concise terms an exact record of the existing estates, powers, and interests in the land so registered as aforesaid, and the names and descriptions of the persons or classes of persons that are or may become entitled thereto respectively:

Thirdly, in a book to be entitled "The Register of Mortgages and Incumbrances" shall be entered under the same number or numbers an account of all the charges and incumbrances affecting the lands or any part thereof, or the estate or interest therein of any person named in the record of title.

Books may
be in-
spected.

15. Subject to such directions as may be given by General Orders, the aforesaid books of registry may be inspected by the owners of the estates and interests, or of the mortgages and incumbrances recorded therein, or their respective solicitors or agents. No other person shall be permitted to inspect such books, except under an order of the Court of Chancery (a).

(a) Compare s. 137.

As to the Record of Title.

16. In the Record of Title so made as aforesaid, it shall be competent for the Registrar to specify or define any exception or qualification or condition affecting the whole of the interests so recorded, or any of them; and also to reserve expressly the right of any person or class of persons, and to describe any outstanding right or possibility of claim or interest, subject to which such registration is made; and if there shall be any disputed question of boundary between the applicants and any proprietor of adjoining land which shall not have been previously determined by any competent authority, it shall be competent for the parties, or either of them, to object in writing to the determination of such question by the Registrar, or by a Judge of the Court of Chancery, under this Act; and if any such objection shall be made, the Registrar shall specify upon the Record of Title the existence of such disputed question of boundary, and that the registration is made subject thereto.

As to exception, &c., in Record of Title.

17. If in making up, or afterwards continuing, such Record of Title as aforesaid, any question shall arise as to the true construction or legal validity or effect of any deed, instrument, or will, or as to the persons entitled, or the extent or nature of the estate, right, or interest, power or authority of any person or class of persons, or the mode in which any entry ought to be made in the Record of Title, or any doubtful or uncertain right or interest stated or dealt with by the Registrar, it shall be competent for the Registrar, or for any of the parties interested, to refer the same to a

Any question as to true construction of any deed, &c., to be referred by Registrar to a Judge of Court of Chancery.

Judge of the Court of Chancery : If on such reference the Judge, having regard to the parties appearing before him, shall think proper to decide the question, he shall have power to do so, or to direct any proceeding at law or in equity to be instituted for that purpose, or at his discretion, and without deciding such question, to direct such particular form of entry to be made on the Record of Title as under the circumstances shall appear to be right.

Registrar
may refer in
Record of
Title to
deed, &c., for
estates of
parties.

18. In any case described in the preceding section, the Registrar may, at the request of the parties or at his own discretion, refer in the Record of Title to the deed, will, or other instrument for the estates and interests of the parties, instead of setting out or describing the same : Provided always, that in every case in which such deed, will, or other instrument shall be so referred to, a copy thereof (which shall be verified and printed in the manner hereinafter directed (a) with respect to deeds or instruments conveying, mortgaging, or charging the estate or interest of any proprietor on the register,) shall be delivered to the Registrar by the parties applying for registration, and shall be preserved in the Registry ; and for the purposes of any subsequent sale, mortgage, or contract for valuable consideration by any person appearing thereby to have any estate or interest in the land to which the Record of Title so made up shall relate, such copy shall be conclusive evidence of the contents of the said deed, without the production of the original thereof.

(a) See ss. 82, 86.

Persons en-
titled to
principal

19. The names of the persons entitled to the proceeds of any trust for sale of the lands

so registered, or to any principal money to be raised by virtue of any charge under the trusts of any estate or term, shall not be entered in the register unless the Registrar shall think fit so to do, but the estate of the trustees shall be defined and the purpose of the trust shortly described.

money, &c., not to be entered in Record of Title unless Registrar thinks fit.

When an indefeasible Title shall arise (a).

20. Subject to any exception, qualification, or condition mentioned in such Record of Title, and to any right or interest thereby reserved, and to any registered charges or incumbrances, and to such charges and interests (if any) as are herein declared not to be incumbrances (b), the persons originally and from time to time named and described in such Record of Title as aforesaid shall, for the purposes of any sale, mortgage, or contract for valuable consideration by such persons respectively, be and be deemed to be as from the date of registering such record by the Registrar, or from such time as shall be fixed by him therein (c), absolutely and indefeasibly possessed of and entitled to such estates, rights, powers, and interests as shall be defined and expressed in such record against all persons, and free from all rights, interests, claims, and demands whatsoever, including any estate, claim, or interest of Her Majesty, her heirs and successors.

Persons described in Record of Title to be deemed as possessed of such estates, &c.

(a) This title refers to s. 20 only.

(b) See s. 27.

(c) That is, "from the date of registry" in the case of a title registered as indefeasible, but "from such time as shall be fixed" in the case of a title not originally registered as indefeasible.

21. No entry in such Record of Title as

Informality not to pre-

judice entry
in Record of
Title.

aforesaid shall be set aside or called in question as against any person who may afterwards become interested therein under any sale, mortgage, or contract for valuable consideration, by reason of any irregularity or informality in the proceedings previous to the making thereof (a).

(a) Compare the Declaration of Title Act, s. 20.

Before
registration
applicant
and solicitor
or agent,
&c., to
make oath
that all
deeds, &c.,
have been
made
known to
Registrar.

22. Before the final registration of any land with an indefeasible title, the applicant and his solicitor or agent, or certificated conveyancer, and such other person or persons as the Registrar shall require, shall make oath that all deeds, wills, and writings relating to the title of the lands, or any part thereof, and all facts material to the title thereto, and all charges, liens, incumbrances, contracts, and dealings affecting the same or any part thereof, or giving any right as against the applicant, have to the fullest extent of their respective knowledge, information, and belief been made known to the Registrar (a).

(a) Compare s. 48 ; also the Declaration of Title Act, s. 10.

Power to
Registrar to
refuse regis-
tration.

23. If at any time before registration the Registrar is of opinion that any further or other evidence is necessary, he may refuse to complete the registration until such further or other evidence shall have been produced.

Power to
Registrar to
demand
security for
costs.

24. The Registrar shall, before taking any proceeding on an application for registration with an indefeasible title, require the applicant to give such security for costs as General Orders (a) shall direct ; and it shall be lawful for the Registrar and for the Judge (b) of the Court of Chancery respectively to order the

costs and expenses properly incurred of any person properly appearing upon any proceeding taken under this Act for the purpose of such registration to be paid by the applicant.

(a) Order 12.

(b) See ss. 121 and 134.

Proceedings for Registration without an indefeasible Title.

25. Application for registration without an indefeasible title may be made by any person (b), subject to the following conditions :

Registration without guarantee (a) of title may be made under certain conditions.

1. The applicant shall prove to the satisfaction of the Registrar that he, or some person under whom he claims, has been in the actual enjoyment or receipt of the rents and profits of the land as owner of the fee simple thereof, continuously and without interruption, for a period of ten years immediately preceding the time of such application :
2. The last deed or will (if any) under which the applicant derives title shall be produced to the Registrar :

If the applicant claims as heir-at-law, evidence shall be given that the ancestor was in the enjoyment of the estate as owner thereof at the time of his decease :

3. The rules above enacted as to the description (c) of the land to be registered shall apply, and the Registrar shall adopt the same course, and take the same proceedings, for the purpose of ascertaining the accuracy of the description

of the lands and of the boundaries thereof, as are hereinbefore directed with respect to registration with an indefeasible title :

4. A statutory declaration (*d*) shall be made by the applicant and his solicitor or agent, or certificated conveyancer, and, if necessary, any other person whose evidence may be deemed necessary by the Registrar, that they respectively believe the applicant to be, either alone or jointly with other persons to be named and described, (and subject to any qualification, condition, or exception which shall be stated,) well entitled to the fee simple of the lands proposed to be registered :
5. If the land be registered, the Registrar shall, in the Record of Title, define the time, event, or circumstances from and after which an indefeasible title shall attach : When the time has arrived, the event happened, or the defined circumstances exist, a Judge of the Court of Chancery may, upon proof thereof, and if there be no other objection, after such and the like notices as are hereinbefore (*e*) required in case of an application for registration of a title as indefeasible shall have been duly given, direct a transfer of the land to the Register of Estates with an Indefeasible Title, and thereupon the Registrar shall make up a proper Record of the Title to such land, and the applicant and other persons named in such Record of Title shall have the same estates, rights, and

privileges as if the land had been registered with an indefeasible title :

6. Subject to the enactments herein contained, the registration of any person as owner of land without an indefeasible title shall not prejudice any estate, right, or interest created or existing at or before the date of such registration.

(a) See s. 5, note (a).

(b) Including the Queen, the Duke of Cornwall, and every corporation.

(c) See ss. 7—10.

(d) Compare s. 22.

(e) See s. 11.

Registration of Leasehold Estates.

26. Leasehold estates, namely, lands demised for terms of years of which fifty years are still to come and unexpired, or demised for lives or for years determinable with lives, and in which two lives at least are still subsisting, may be registered with an indefeasible title in a similar manner and subject to the same or similar directions and rules of proceeding as are herein contained with respect to freehold lands: Such application may be made by persons having such estates and interests in the leasehold estates as are similar or correspondent to the estates and interests of the persons entitled to apply for the registry of freehold land: No indefeasible title shall, in the case of a leasehold, extend to the title of the lessor or grantor of the same: Such further directions shall be observed with regard to leasehold estates as shall be given from time to time by General Orders (a).

Leasehold estates may be registered in like manner as freehold lands.

(a) Order 19.

General Provisions as to Title.

Charges and liabilities not to be deemed incumbrances.

27. The following charges and liabilities shall not be deemed incumbrances within the meaning of this Act (*a*); namely,

1. Land tax, succession duty, tithe rent-charges, rents payable to the Crown :
2. Public rights of way, liability to repair highways by reason of tenure, rights of way, watercourses, and rights of water, and other easements or servitudes, rights of common (*b*), manorial rights and franchises :
3. Leases or agreements for leases not exceeding twenty-one years, where there is an actual occupation under the same :

Nevertheless, where any such charges or liabilities appear or are discovered in the course of proceeding prior to registration, the Registrar shall, in such manner as he shall think fit, notice in the register the existence of such charges or liabilities.

(*a*) Compare the Irish Act, s. 62, and the West Indian Act, s. 36.

(*b*) In the corresponding clause of the Declaration of Title Act (s. 29), "rights of common" are omitted.

Land may be registered as one estate.

28. Land entered on the register may, at the option of the proprietor, be registered as one estate or as separate estates (*a*) ; but the particulars of each estate, and any transactions relating thereto, shall, subject to any regulations to the contrary that may be made by General Order, form a separate record in the register, distinguished by a separate number,

or in such other manner as the Registrar may determine.

(a) This section may be useful in several cases, *e. g.* where it is desired to settle various lands upon different children, to charge various lands in different ways, or to sell an estate in lots, with separate titles. Compare the Declaration of Title Act, s. 25.

29. If land registered or proposed to be registered, or any part thereof, be subject, or be agreed to be made subject to any condition, as, for example, that it shall not be built upon, or used in a particular manner, or any other legal condition, notice thereof shall be entered in the Record of Title, and any transfer, demise, or charge of such land shall be subject to such condition; but it shall be lawful for the Court of Chancery to discharge, alter, or modify any such condition upon hearing all parties who may be entitled to claim under or against the same.

Registered land made subject to certain conditions, &c.

30. So soon as any land is registered, if there shall appear to be any charge or incumbrance affecting such land or any part thereof which is entered in the Register of Incumbrances (the owner of which has not had notice of the application), notice of such registration shall be immediately given by the Registrar to the person entitled or interested in such charge or incumbrance.

Notice of registration of land to be given by Registrar to interested person.

31. If any judicial declaration of the title to any land shall be made by the Court of Chancery under any Act (a) which may be passed in the present session for the purpose of enabling persons having interests in land to obtain a judicial declaration of their title to the same, so as to enable them to make an indefeasible

Judicial declaration of title.

title to persons claiming under them, as purchasers for valuable consideration, the land as to which any such declaration may be made may, at the option of the person obtaining the same, be entered upon the Register of Estates with an Indefeasible Title (*b*) under this Act when and so soon as the time allowed for appealing under any such Act as last aforesaid shall have expired, or (if any appeal shall be prosecuted) when and so soon as any such declaration shall be affirmed by the last Court of appeal, or the appeal withdrawn; and the title to such land, as the same shall be declared by the Court, shall in such case be entered upon the Record of Title to lands on the registry under this Act, and such land shall thenceforth be subject to the provisions of this Act in the same manner in all respects as if the registration thereof had been made by virtue of proceedings duly taken for the registration of an indefeasible title thereto under this Act.

(*a*) The Declaration of Title Act (25 & 26 Vict. c. 67); see particularly s. 21.

(*b*) Order 22: Form M.

Every
estate, &c.,
to be en-
tered in
Record of
Title after
registration
of land.

32. From and after the registration of any land, every estate or interest, use, trust, mortgage, charge, lien, right, or title granted, declared, arising, becoming vested, or in any manner created, or coming into existence in, to, upon, out of, or affecting such land or any part thereof, (except as herein (*a*) excepted), shall be entered, described, or noticed in the Record of Title or Register of Incumbrances to be so kept as aforesaid.

(*a*) S. 27.

Estates of
registered

33. Subject to the enactments herein con-

tained, the estates and interests of all registered proprietors shall remain subject to the existing law, and may be dealt with, assured, devised, and transmitted by descent or representation according to the ordinary rules of law and equity.

34. The registered proprietor of land may, with the consent of all persons appearing by the register to be interested in such land, remove the same from the register (a), and thereupon the register shall as respects such land be deemed to be closed.

proprietors
subject to
existing
law.

Power to
registered
proprietor,
with con-
sent of
persons inter-
ested, to
close
register.

(a) Order 37.

Caveat against Entry of Land on Register.

35. Any person having or claiming such an interest in land as entitles him to object to any disposition thereof being made without his consent may lodge a caveat with the Registrar (a), to the effect that the cautioner is entitled to notice of any application that may be made for registration of such land, and appointing a place within Great Britain for the service of such notice.

Caveats may
be lodged
with Regis-
trar, to the
effect that
cautioner is
entitled to
notice.

(a) Order 20: Form C.

36. The caveat shall be supported by an affidavit, stating the nature of the interest of the cautioner, and such other matters as may be required by the Registrar.

Caveat to be
supported
by affidavit.

37. Notice (a) may be served on the cautioner either personally or by sending it through the post to the address stated in the caveat.

How notice
to be served.

(a) Form D.

38. After a caveat has been lodged, no regis-

After caveat,
no registra-

tion to be
made of
lands till ten
days after
notice.

tration shall be made of any lands to which such caveat refers until notice has been served on the cautioner to appear and oppose such registration, and ten days have expired since the date of the service of such notice, or until the cautioner has entered an appearance, which may first happen.

Compensa-
tion if caveat
lodged with-
out reason-
able cause.

39. If any person wrongfully and without reasonable cause, lodges a caveat with the Registrar, he shall be liable to make, to any person who may have sustained damage by the lodging of such caveat, such compensation as a Judge (a) of the Court of Chancery shall deem just.

(a) See s. 134.

Caveat not
[to preju-
dice] title
of any
person.

40. A caveat lodged in pursuance of this Act shall not prejudice the claim or title of any person, and shall have no effect whatever, except to entitle the cautioner to receive such notice as is hereinbefore-mentioned of any application made for registration of land.

PART II.

SIMPLIFICATION OF TITLE BY JUDICIAL SALES.

Sales by Court of Chancery.

Sales of
land may be
made by the
Court, on
application
by owner.

41. Sales may be made by the Court of Chancery of land (a) with an indefeasible title, upon the application, by petition or otherwise, as General Orders (b) may direct, of any of the persons (c) who are hereinbefore empowered to apply for registration of title.

(a) Including messuages, tenements, and hereditaments, corporeal and incorporeal: s. 140.

(b) Orders in Chancery, not yet issued.

(c) Or parties, see s. 4.

42. Such application shall be served on such persons as the Court shall think fit, before a preliminary Order is made (a). Application to be served on parties.

(a) Compare s. 12; also The Leases and Sales of Settled Estates Act (19 & 20 Vict. c. 120), s. 19; and Lord St. Leonards' Act (22 & 23 Vict. c. 35), s. 30.

43. By its preliminary order or orders, the Court shall provide for the examination of the title (a) to the land, and the ascertainment of a correct description (b) thereof, and shall also make such inquiries (c) as to the parties interested, either as incumbrancers, owners, or otherwise, and direct such notices (d) to be given as are hereinbefore directed on the occasion of application to the Registrar for registration of an indefeasible title, and shall also direct such other notices, if any, to be given as it thinks necessary to enable it to form a judgment as to the propriety of a sale, and shall hear by themselves, their counsel or agents, any persons interested in such land who may apply to them (e) to be heard, and shall, upon the conclusion of such inquiries, and after hearing such parties, if any, as aforesaid, make such order as to the sale of such lands as it thinks just. Court shall provide for examination of title, &c., before making order for sale.

(a) As in the case referred to in s. 5.

(b) Compare ss. 7—9.

(c) See s. 10.

(d) See s. 11.

(e) Read "it."

44. Before making any order the Court may require the applicant to give security for costs. Applicant to give security for costs.

45. The purchase money on any sale made by the Court shall be paid as the Court may Purchase money to be paid into

the Bank [?] as Court may direct.

direct (a); and the Court may make an Order vesting the land in the purchaser, subject or not, as the case may require, to the incumbrances specified in such Order, and subject in all cases to such charges or interests as may be subsisting thereon, and are hereinbefore declared not to be incumbrances within the meaning of this Act.

(a) Compare the Irish Act, ss. 56, 64, 65.

Such payment to exonerate purchaser from liability.

46. The payment of the purchase money in manner directed by the Court shall exonerate the purchaser from all liability whatsoever with respect to the same (a).

(a) Compare the Irish Act, s. 56.

Vesting order to be stamped.

47. Any vesting order by the Court shall bear the same stamp as if it were a conveyance made by an ordinary vendor.

Applicant for sale and his solicitor may be examined concerning title before vesting order made.

48. Before any vesting order is made as aforesaid, the applicant for the sale or (a) his solicitor may be personally examined by the Court, or required to give satisfactory evidence as to the fact that all settlements, deeds, wills, and instruments of title, and all charges and incumbrances affecting the title to the land which is the subject of the application, and all facts material to such title, have been disclosed, and that there is not to their or either of their knowledge, information, or belief any deed, charge, or incumbrance affecting the title to the said land, nor any fact material to the said title, not fully and fairly disclosed as aforesaid: The Court may require any person proposing to make an affidavit in pursuance of this section to state in his affidavit what means he has had of becoming acquainted with the several matters referred to in this

section, and if the Court is of opinion that any further or other evidence is necessary, it shall not make such vesting order until such further or other evidence is produced.

(a) Compare s. 22, and s. 25, cl. 4, which both read "*and* his solicitor;" also the Declaration of Title Act, s. 10.

49. Where any sale of the fee simple of land is about to be made under the order of the Court of Chancery, in pursuance of an Act passed in the twentieth year of the reign of Her present Majesty, chapter one hundred and twenty, and intituled "An Act to facilitate Sales and Leases of Settled Estates," or of any Act amending the same, or in pursuance of any other order of the Court, the Court of Chancery may, on the application of any parties interested in such sale, take such steps as are hereinbefore directed, and, if satisfied of the propriety of so doing, may make an order directing the land to be put up for sale with an indefeasible title, and also an order vesting the land in a purchaser, and any such vesting order shall have the same effect as if it had been made on an application to the Court under this part of this Act (a).

Where sales are made under 20 Vict. c. 120, the Court may make order as under this Act.

(a) Compare the Irish Act, s. 46.

50. Every vesting order made by the Court of Chancery in pursuance of this part of this Act shall confer on the person in whom the land is vested an estate in fee simple, together with all rights, privileges, and appurtenances therewith enjoyed, or reputed as belonging or appurtenant thereto, subject to the incumbrances, exceptions, or qualifications, if any, appearing in the order, and subject also to

Vesting order to confer on person in whom land is vested an estate in fee simple, with all rights, privileges, &c.

such charges and interests, if any, as are hereinbefore declared not to be incumbrances, but free from all other estates, rights, incumbrances, and interests whatsoever, including all estates, interests, and claims of Her Majesty, her heirs and successors (a).

(a) Compare the Irish Act, ss. 61, 87.

Court may make a qualified vesting order, where title is shown for a limited period only.

51. Where upon an application being made for a sale by the Court of Chancery it is proposed that a good title should be shown to the purchaser for a limited period only, the Court may make a qualified vesting order, declaring by a statement contained in such order, or by endorsement thereon, or by such other manner as the Court thinks fit, that the title is to be deemed to commence from the date of some specified instrument or at or on some specified time or event.

Effect of qualified vesting order.

52. A qualified vesting order shall not affect or prejudice any estate, title, or interest in or to such land created or arising prior to the date at which the title is stated to commence, but, save as aforesaid, shall have the same effect as an absolute vesting order (a).

(a) Compare the provision as to registration without an indefeasible title, s. 25, cl. 6.

Court of Chancery may require production of deeds, &c.

53. The Court of Chancery may, in the course of any proceedings relating to land wherein a vesting order is sought to be obtained, require all persons having any deeds or evidences of title relating to such land, who are bound by law so to do, to produce the same to the Court, upon such terms and subject to such conditions as the Court may think just (a).

(a) See ss. 22, 48.

54. The Court of Chancery shall determine the rights and priorities of the several persons entitled to or interested in any money payable under this part of this Act, and shall distribute the same among such persons in accordance with such rights and priorities (a).

Distribution of monies paid into Bank [?].

(a) Compare the Irish Act, s. 64, and the West Indian Act, s. 41.

55. Where any money is payable in pursuance of this Act, and is not immediately distributable, or the parties entitled thereto cannot be ascertained, or where from any other cause the Court thinks it expedient for the protection of the rights of the parties interested therein, it may order such money to be placed to such account as the Court directs, in trust to attend the orders of the Court, and it may by its order declare the trusts affecting such money so far as it has ascertained the same, or state the facts found by it in relation to the rights and interests therein, and generally the Court may make such orders with respect to any such money, and the investment or application thereof, or the payment thereof out of Court, as the circumstances of the case require (a).

As to disposal of money not immediately distributable.

(a) Compare ss. 60 and 90 of this Act; also the Irish Act, ss. 65, 70; and the West Indian Act, s. 42.

56. When the Court of Chancery has made a vesting order of land in pursuance of this part of this Act, all such deeds and evidences of title delivered to the Court as relate exclusively to the land, and which the purchaser is entitled to, shall be delivered to him; and all other deeds and evidences of title delivered to the Court relating to the land or to any part

As to disposal of deeds after vesting order made.

thereof shall be returned to the parties entitled to the custody thereof, but previously to the same respectively being so delivered or returned, they shall be stamped or otherwise marked in such manner as to give notice to any person inspecting such deeds or evidences of title of the proceedings taken by the Court in relation to the land or any portion of the land comprised in such deeds (a).

(a) Compare the Declaration of Title Act, s. 23.

Vesting
order to
direct entry
on register.
Contents of
vesting
order.

57. Every such vesting order (a) may direct the Registrar to enter the name of the person entitled on the register as the proprietor of the land with an indefeasible or qualified title, as the case may be, and in such case the order shall state the name and description of the person entitled, and describe the lands to be registered, with the addition of the incumbrances, if any, affecting such lands, and such other matters as the Court thinks fit to insert therein, including, in the case of an applicant entitled only to a qualified vesting order, a statement of the time or event at or on which the title, as registered, is to commence.

(a) Order 21 : Form L.

Registration
with a quali-
fied title not
to affect
prior claims.

58. The registration (a) of any person as first proprietor of land with a qualified title shall not affect or prejudice the right of any person claiming any estate, title, or interest created or arising prior to the time or event at or on which the title is stated on the register to commence (b), but, save as aforesaid, shall have the same effect as registration with an indefeasible title.

(a) Under a vesting order.

(b) Compare s. 25, cl. 6.

59. Where upon the first registration of the land under a vesting order notice of any incumbrance affecting such land has been entered on the register, the Registrar shall, on proof of the discharge of such incumbrance, enter a memorandum of such discharge on the register, and upon such entry being made the incumbrance shall be deemed to be discharged (*a*). Entry of discharge of incumbrance.

(*a*) Compare s. 87.

60. Where any order has been made by the Court of Chancery vesting land in a purchaser, or where any person has been registered with an indefeasible title under a vesting order, any person aggrieved by such order or registration may apply to the Court of Chancery to be reimbursed for any injury he may have sustained, out of any purchase money that may be remaining in Court (*a*). Compensation to persons aggrieved.

(*a*) See s. 55.

61. In every proceeding under this Act the Court shall have full power and discretion as to the giving or withholding costs and expenses, and as to the persons by whom and the funds out of which the same shall in the first instance or ultimately be paid, repaid, and borne; and may direct the same to be paid to or apportioned among such persons as it sees fit (*a*). As to costs and expenses.

(*a*) Compare the Declaration of Title Act, s. 34.

62. The Lord Chancellor may from time to time assign the duties by this part of this Act vested in the Court of Chancery to any particular Judge or Judges of that Court, and may appoint such new or additional clerk or clerks as to him may seem necessary for en- As to assignment of duties.

abling such Judge or Judges duly to execute the duties imposed on it, and every such additional clerk shall receive out of the Suitors' Fee Fund such salary as the Lord Chancellor may think proper.

PART III.

AS TO THE TRANSFER OF REGISTERED LAND.

Conveyance,
&c. of regis-
tered land.

63. All registered land (*a*), and every part thereof, may be conveyed, charged, settled, dealt with, or affected in or by any of the following modes or dispositions; that is to say,

First, by a statutory disposition in any of the forms described in this Act (*b*):

Secondly, by endorsement on the land certificate (*c*):

Thirdly, by deposit of the land certificate (*d*):

Fourthly, by any deed, will, judgment, decree, or instrument by which such land, if not registered, might now according to law be conveyed, charged, settled, devised, dealt with, or affected (*e*):

But no equitable mortgage or lien on registered land shall be created by a deposit of title deeds.

(*a*) Including messuages, tenements, and hereditaments, corporeal and incorporeal, s. 140.

(*b*) See schedule.

(*c*) According to the third or fourth form in the schedule. See s. 72.

(*d*) See s. 73.

(*e*) See s. 74.

64. On the occasion of any sale, mortgage, or other disposition of registered land, or of any estate thereon (a), the parties or their agents, duly authorised, may attend at the Registry Office to complete the transaction (b): The description of the land and of the estate therein proposed to be conveyed shall be taken from the Register of Estates and Record of Title, and inserted under the superintendence of the Registrar in one of the statutory forms of conveyance described in the schedule hereto; and such conveyance shall be executed by the parties or their agents in the presence of and attested by such persons as the Registrar shall approve of, and shall then and there (together with the powers of attorney) be delivered to the Registrar for the purposes of registration, who shall make the proper entries in the register accordingly.

Attendance of parties at Registry Office on sale, &c. of registered land.

- (a) Read "therein."
- (b) Order 25.

65. The registered proprietor of any land, estate, or interest, may convey or charge the same by the forms of conveyance mentioned in the schedule hereto; and the same shall be as complete and effectual as any other form of conveyance would have been either at law or in equity.

Forms of conveyance in schedule hereto of registered land.

66. The persons taking under the statutory forms of conveyance mentioned in the schedule to this Act shall take as fully and effectually as if the estates, rights, powers and authorities expressed to be created and given by such forms respectively had been conveyed, created, or granted by any of the modes of assurance now known to the law.

Forms of conveyance in schedule as effectual as other forms.

Forms may
be modified
or altered.

67. The forms contained in the schedule may be modified or altered in expression to suit the circumstances of every case, and the conveyances made in such altered forms shall be equally valid and effectual.

As to Land Certificates.

Registrar to
deliver land
certificates.

68. The Registrar shall, upon request (a), deliver to every person who is named or described in the Record of Title as the owner of any estate or interest in lands upon the registry a certificate (herein called a land certificate) under the seal of the Office, and signed by the Registrar, which certificate shall contain, first, a copy of the description of the same lands as appearing in the Registry of Estates, with all the entries relating thereto; and secondly, a copy of the entries relating to the same lands appearing in the Record of Title; and thirdly, a copy of the entries in the Registry of Incumbrances of the mortgages, charges, claims, and liens on or affecting the estate and interest of such owner; and such certificate shall certify whether such lands are registered with or without an indefeasible title, and shall be distinguished by the number under which the lands are registered in the Register of Estates, and shall contain all such other particulars as are material or useful for the purpose of manifesting the exact nature of such owner's estate and interest.

(a) Order 23: Form N.

Registrar, at
request of
holder, to
compare
certificate
with regis-
try.

69. At the request of the holder (a), the Registrar shall at any time compare such land certificate with the registry, and, if there has been no alteration, shall certify at the foot of

such certificate that it contains a true statement of the entries in the registry, and shall sign the same, and add the date of such signature: Any alteration or omission which can be conveniently made in a land certificate, or any addition thereto, so as to make the same correspond with any alteration in the registry, may be made and signed by the Registrar, if he shall think fit: A new land certificate may be granted on the delivery up of the former certificate (b): A certificate shall be granted to any person who shall appear by the Register of Incumbrances to be entitled to any mortgage, charge, or incumbrance on registered lands, which certificate shall contain a description of the lands and the particulars of the incumbrance (c).

(a) Order 24: Form P.

(b) See s. 119.

(c) Order 23: Form O.

70. Whenever any registered proprietor shall be desirous of selling, mortgaging, or settling any registered land or estate therein, he may obtain from the Registrar a special land certificate for that purpose, which shall contain an exact description of the land proposed to be so dealt with taken from the Register of Estates, and shall also state the nature of the estate and interest of such proprietor therein, and the particulars of the incumbrances, if any, affecting the land described: Such certificate shall be conclusive evidence of the title of the registered proprietor to the land as appearing by the Record of Title: No entry shall be made by the Registrar in the registry of any deed, instrument, act, or transaction affecting the land comprised in such special certificate, and the estate of

Registered proprietors desirous of selling, &c. may obtain special land certificate.

the registered proprietor described therein, except on the delivery up of such certificate, until fourteen days have expired from and after the day of the date thereof: A note of such special certificate shall be entered in the Record of Title and in the Register of Incumbrances, and also on the original land certificate (a).

(a) Order 23.

Certificate
to be evi-
dence.

71. Every land certificate shall be evidence (a) of the several matters therein contained.

(a) Conclusive evidence, but only in favour of purchasers for valuable consideration, without notice of fraud, and those claiming under them: ss. 105, 138.

Conveyance
of lands by
endorse-
ment.

72. The lands, and the estate therein of the owner, described in such land certificate, may be effectually conveyed or charged by endorsement thereon, according to any of the forms of assurance by endorsement contained in the schedule to this Act (a).

(a) See ss. 63—67, and 136.

Deposit of
certificate.

73. The deposit of the land certificate shall, for the purpose of creating a lien on the estate and interest of the depositor, have the same effect as a deposit of the title deeds of the estate would have had before the passing of this Act (a); and any agreement or memorandum in writing relating to such deposit shall be chargeable with the same stamp duty as an agreement accompanied with a deposit of the title deeds would be chargeable with.

(a) No equitable mortgage or lien on registered land will be created by a deposit of title deeds: s. 63.

Estates, &c.
in land may

74. Every person having a sufficient estate

or interest in registered land, may by will, deed, or other instrument create the same estates and interests in, and enter into the same contracts and engagements with respect to such land as he might do if the land were not registered (a): Provided always, that no unregistered estate or interest, contract or engagement, for the registration whereof provision is made by this Act, shall prevail against the title of any subsequent purchaser for valuable consideration duly registered under this Act.

be created
by will, &c.

(a) See s. 63.

75. On the execution of any deed or instrument conveying, mortgaging, or charging the estate or interest of any proprietor on the register, the original, or a copy of such deed or instrument, shall be sent to the Registrar by the grantee or person taking benefit under the same: Such copy shall be compared with the original in such manner as the Registrar shall direct, who shall require the original to be produced or inspected for that purpose in such manner as he shall think fit; and such original deed or instrument shall in every such case be stamped or endorsed (a) so as to give notice of the registration thereof under this Act to every person to whom the same may be afterwards produced.

On convey-
ance of
estate, &c.
on register,
deed or
copy to be
sent to
Registrar.

(a) Form Q.

76. So soon as the original or the copy of any deed or instrument in writing whatsoever affecting registered land, or creating or affecting any estate or interest therein, has been received by the Registrar, such deed or instrument, and the estate and right created thereby,

When deed
received by
Registrar,
estate
created to
be deemed
duly regis-
tered.

shall be deemed to have been duly entered on the registry: An official note of reference to such deed or instrument shall forthwith on receipt thereof be made by the Registrar in the Record of Title, or Register of Incumbrances, as the case may be: Provided always, that such deed or instrument, and the estate and right created thereby, shall not be deemed to have been entered upon the registry so as to affect any land comprised in any such special certificate as hereinbefore mentioned, until after the expiration of the time hereinbefore limited (a) for the entry of any deed, instrument, act, or transaction affecting such land.

(a) That is, fourteen days after the date of the special land certificate: s. 70.

Notice
when to be
sent to
Registrar.

77. Notice of every instrument transferring, or in anywise dealing with or affecting the ownership of or the right to receive money due on any mortgage, charge, or incumbrance entered on the registry, shall be given to the Registrar (a), who shall note the same in the Registry of Incumbrances.

(a) Order 29.

Where
estate trans-
mitted to
any person
by descent
such person
to be regis-
tered.

78. Where the estate or interest of a registered proprietor is transmitted on his death to any other person by descent, will, or representation, such other person shall be entered on the register in the place of the deceased proprietor (a): If such person cannot be ascertained, or there shall be any doubt, dispute, or litigation touching the ownership of the estate of such deceased proprietor, it shall be lawful for the Court of Chancery to appoint a person to be registered in the room of such deceased

proprietor as the representative of such estate or interest (b).

(a) No time is limited.

(b) Compare the Trustee Act, 1850, s. 20, by which, in certain cases, the Court of Chancery may appoint a person to convey.

79. On the application of any devisee for registration of a will (a), or of his estate or interest under the same, the Registrar may require notice to be given to the heir at law of the testator.

Notice to be given to heir at law of application for registration of a will.

(a) Or codicil.

80. On the bankruptcy of any registered proprietor, the assignee or assignees of his estate shall be entitled to be registered in his place.

In case of bankruptcy assignees to be registered.

81. In lieu of a copy of a will (a), a memorial thereof, containing a copy of all the provisions in the will relating to or affecting any registered land, may be delivered to the Registrar for the purpose of registration: Provided that the Registrar shall ascertain the sufficiency of the memorial by an examination of the will or a copy thereof.

Memorial of will may be registered instead of copy thereof.

(a) Or codicil.

82. The execution of the original deed, will, or instrument so proposed to be registered, and the exactness of every copy or memorial delivered for registration, shall be proved in such manner as the Registrar shall from time to time require.

Execution to be proved as Registrar may require.

83. Memorials of descents, deaths, marriages, and of the evidence thereof respectively, and such other memorials and evidence of matters relating to registered lands as the Registrar shall, on the same being delivered to

Memorials of descents, &c. to be registered, &c.

him, deem important, shall be registered, but all such documents shall be printed (a) for that purpose.

(a) See s. 86: Order 34.

Registrar to
note effect
of instru-
ments, &c.

84. On receiving any instrument (a) hereby directed to be registered the Registrar shall make an official note of the effect of every such instrument, judgment, order, or decree in the Record of the Title of the person whose estate or interest is affected thereby, and he shall also enter on the Record of Title a reference to the book and page of the book containing such registered instrument or memorial.

(a) Several words are here omitted, as the context shews.

Official note,
what to
contain.

85. An official note of an instrument entered on the register may consist of a reference to such instrument, or of an extract therefrom, or of a short statement of the effect or nature thereof, or of an intimation that no disposition is to take place without the consent of some person named in such instrument, or of such matters and in such form as the Registrar shall deem right, or as shall be from time to time directed or allowed by any General Order.

Printed
copy of
deed, &c. to
be delivered
to Registrar.

86. For the purpose of registration a printed copy of every deed or instrument not testamentary (a) under or by virtue of which any interest or right is claimed in or to any registered land may be delivered to the Registrar, but if the original or a written copy of any such deed or instrument be delivered to the Registrar, the same shall be printed by his order, but at the expense of the person registering the same.

(a) As to testamentary instruments, see s. 81.

87. The Registrar, upon the application of the person entitled under any registered instrument (a), or upon its being proved (b) that the purpose of such instrument is determined or satisfied, may remove the same from the register and erase or cancel any official note thereof, and thereupon such instrument and any memorial thereof may be destroyed or otherwise dealt with as the Registrar may think fit (c).

Registrar in certain cases may erase official note.

(a) For example, a demise for years on trust to secure a sum of money.

(b) As if the person entitled under the instrument might neglect to apply for its removal from the register on its purpose being satisfied, the Registrar is here empowered to remove it on receiving any sufficient proof of its satisfaction.

(c) Order 45.

88. No dealing with any registered land, nor any instrument or transaction affecting the same, or any estate or interest therein, shall be completed, entered, or noticed on the register until the Registrar shall be satisfied that the stamp and *ad valorem* duties which would be payable to Government in respect of the same matters have been duly paid (a).

No dealing with registered land effectual until stamp and *ad valorem* duties paid.

(a) Order 43.

PART IV.

GENERAL PROVISIONS TO FACILITATE REGISTRATION.

89. If on the examination of any title it shall appear that the land or any part of it is subject to any money charge or incumbrance, the ownership of which is not ascertained, or the right to which is doubtful or uncertain, or to any doubtful or uncertain right or claim

Money charge not ascertained, &c., may be referred to Judge at chambers.

which may be estimated or compensated by money, and does not involve a right to the land itself otherwise than as a security for money, the case may, at the request of the applicant for registration, be referred to a Judge of the Court of Chancery sitting in Chambers for the purpose of determining whether such right or claim and the costs of any party entitled by virtue thereof can be justly provided for by payment of money into Court, and if so to fix the sum to be so paid in, and direct the investment and application of the interest thereof; and after such payment shall have been made the land and the title thereto shall be wholly discharged from such right, claim, charge, or incumbrance as fully as if the same had never existed.

Judge may
order
money
not distri-
butable, &c.
to be paid
into Court of
Chancery.

90. Where any part of the money arising from the sale of a registered estate is not immediately distributable, or the persons entitled thereto cannot be fully ascertained, it shall be competent for one of the Judges of the Court of Chancery, on any application for that purpose made with the concurrence of the the Registrar, to direct any sum of money arising from such sale to be paid into the Court of Chancery, or otherwise invested, and to declare the account or purpose to or for which such money is to be transferred or holden, and afterwards to make all such Orders touching such money, and the investment, application, and distribution thereof, as the circumstances of the case may require (a).

(a) Compare s. 55.

Deeds to be
stamped.

91. When an estate is entered on the register, whether with or without an indefeasible title,

all such deeds and evidences of title as shall be produced to the Registrar, under any of the provisions aforesaid, shall be stamped or endorsed in such a manner, under the direction of the Registrar, as to give notice to any person to whom such deeds or instruments may be afterwards produced that the land, or some portion of the land comprised therein, has been registered under this Act.

92. If in any proceeding under this Act any question shall arise respecting the priority of any charges or incumbrances, claims or interests, it shall be competent to the Registrar to report the same to a Judge (a) of the Court of Chancery, who shall have power to summon all parties interested to attend him either in Court or at chambers, and to decide all questions touching the priority and relative rights of the parties, as fully as if they were parties to a suit instituted for the purpose.

Judge may decide questions of priority of incumbrances, &c.

(a) See s. 134.

As to Restraint of Conveyance.

93. Where the registered proprietor of any land or charge is desirous for his own sake, or at the request of some person beneficially interested in such land or charge, to place restrictions on transferring or charging such land or charge, such proprietor may, upon application to the Registrar (a), direct that no transfer shall be made of or charge created on such land or charge, unless the following things, or such of them as he may prescribe, are done; (that is to say,)

As to restrictions on conveyance, &c. of land.

Unless notice of any application for a transfer or creation of a charge is transmitted

by post to such address as he may specify to the Registrar:

Unless the consent of some person or persons, to be named by such proprietor, is given to the transfer or creation of a charge:

Unless some such other matter or thing is done as may be required by the applicant and approved by the Registrar.

(a) Order 30: Form R.

Registrar
to make a
note of such
restrictions.

94. The Registrar shall thereupon make a note of such directions on the Record of Title of such proprietor, or otherwise as he shall think fit, and no transfer shall be made or charge created, except in conformity with such directions; and any such directions may at any time be withdrawn or modified at the instance of all the persons for the time being appearing to the Registrar to be interested in such directions (a), and shall also be subject to be set aside by the Order of a Judge (b) of the Court of Chancery.

(a) Order 31: Form S.

(b) See s. 134.

Court of
Chancery
may ex-
ercise
powers of
13 & 14 Vict.
c. 60.

95. For the purpose of authorising or compelling a transfer to be made of any registered land or charge, the Court of Chancery may exercise all such powers as are vested in it by the Trustee Act, 1850, or by any Act amending the same (a) in relation to transfers of stock.

(a) Namely, 15 & 16 Vict. c. 55.

Caution.

Person in-
terested
may lodge

96. Any person interested under an agreement, or otherwise howsoever, in any land or

charge registered in the name of any other person, may lodge a caveat, with the Registrar to the effect that no disposition of such land or charge be made until notice has been served upon the cautioner (a).

caution with Registrar.

(a) Order 32: Form E.

97. The caveat shall be supported by an affidavit made by the cautioner or his agent, in such form as the Registrar shall direct, stating the nature of the interest of the cautioner, and such other matters as may be required by the Registrar.

Caution to be supported by affidavit.

98. After any such caveat has been lodged in respect of any land or charge, the Registrar shall not register any disposition thereof until he has served notice on the cautioner, warning him that his caveat will cease to have any effect after the expiration of twenty-one days next ensuing the date of such notice; and after the expiration of such time as aforesaid the caveat shall cease, unless an order to the contrary is made by the Court of Chancery, and upon the caveat so ceasing the land or charge shall be dealt with in the same manner as if no caveat had been lodged (a).

Statutory [or other] disposition of land not to be registered until notice served on cautioner.

(a) Order 32: Form F.

99. If before the expiration of the said period of twenty-one days the cautioner, or some other person on his behalf, appears before the Registrar, and enters into a bond, with sufficient security, conditioned to indemnify every person against any damage that may be sustained by reason of any disposition of the property being delayed, the Court of Chancery may thereupon, if it thinks fit so to do, make an order on the Registrar requiring him to

Cautioner to give security against damage sustained by delay of disposition of property.

delay registering any disposition of the property for such further period as is mentioned in the order.

Compensation for lodging caution without reasonable cause.

100. If any person lodges a caveat with the Registrar, he shall be liable to make, to any person who may have sustained damage by the lodging of such caveat, such compensation as a Judge (a) of the Court of Chancery shall deem just.

(a) See s. 134.

Injunction.

Court of Chancery may issue order restraining disposition of land, &c.

101. The Court of Chancery may, without prejudice to the exercise of any other power of the Court, upon the application of any person interested in any registered land made in such manner as the Court directs, issue an order restraining for a time, or until the occurrence of an event to be named in such order, or generally until further order, any disposition of any land or charge.

(a) Compare the Declaration of Title Act, s. 32.

Court of Chancery may annex terms, &c. to such order.

102. The Court may make or refuse any such order, and annex thereto any terms or conditions it may think fit, and discharge such order when granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires; and the Registrar, without being made a party to the proceedings, upon being served with such order or an official copy thereof, shall obey the same.

Jurisdiction of Courts of equity.

103. Nothing contained in this Act shall take away or affect the existing jurisdiction of Courts of equity, on the ground of actual fraud.

Acts relating to re-

104. The Provisions of the several Acts of

Parliament now in force relating to the registries which have been established in the counties of Middlesex and York shall cease to be applicable to any land situate in the said counties respectively, so soon as the same land has been put upon the register under the provisions of this Act, and whilst it remains thereon.

registries in
Middlesex
and York
not to
apply to
land on
register un-
der this Act.

Penalty on Fraud, &c.

105. If in any proceeding to obtain the registration of any land, or any land certificate or certificate of title, or otherwise in any transaction relating to land which is or is proposed to be put upon the registry, any person acting either as principal or agent shall, knowingly and with intent to deceive, make or assist or join in or be privy to the making of any material false statement or representation, or suppress, conceal, or assist or join in or be privy to the suppressing, withholding, or concealing from any Judge, or the Registrar, or any person employed by or assisting the Registrar, any material document, fact, or matter of information, every person so acting shall be deemed to be guilty of a misdemeanor, and on conviction shall be liable to be imprisoned for a term not exceeding three years, and either with or without hard labour, or to be fined such sum as the Court by which he is convicted shall award: The act or thing done or obtained by means of such fraud or falsehood shall be null and void to all intents and purposes, except as against a purchaser for valuable consideration without notice (a).

Person
making false
statement
guilty of
misde-
meanor.

(a) With this and the two following sections compare ss. 138, 139; also the Declaration of Title Act, ss. 44—47.

As to persons aggrieved by proceeding, &c. for any act declared a misdemeanor.

106. No proceeding or conviction for any act hereby declared to be a misdemeanor shall affect any remedy which any person aggrieved by such act may be entitled to, either at law or in equity, against the person who has committed such act.

Answers to bills, questions, &c. not admissible in evidence.

107. Nothing in this Act contained shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding, in any Court of law or equity, or in the Court of Bankruptcy; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding.

OFFICE OF LAND REGISTRY, POWERS OF COURT OF CHANCERY, AND MISCELLANEOUS.

Establishment of Office of Land Registry.

108. An Office, to be called the Office of Land Registry, shall be established, and the business of such Office shall be conducted by a Registrar, with the aid of such number of Assistant Registrars not exceeding three, Examiners of Title, Clerks, messengers, and servants as the Lord Chancellor may fix with the consent of the Commissioners of Her Majesty's Treasury.

Appointment of Registrar.

109. The Registrar shall be a serjeant-at-law or barrister of ten years' standing at least: He shall be appointed by Her Majesty by letters patent, and shall hold his office during good behaviour: Upon any vacancy occurring in the office of Registrar, Her Majesty may, by letters patent, appoint a person to fill such vacancy.

Appointment of As-

110. The Assistant Registrars and Examiners

of Title shall be appointed by the Lord Chancellor, and may be removed by him for negligence, want of skill, untrustworthiness, or inability to perform their duties; the clerks shall be also appointed by the Lord Chancellor, and shall hold their offices during his pleasure; and upon any vacancy occurring in the office of any Assistant Registrar, Examiner of Title, or Clerk, the Lord Chancellor may appoint another person in his place: The messengers and servants shall be appointed by the Registrar, and shall hold their office during the pleasure of the Registrar; and all such Assistant Registrars, clerks, messengers, and servants shall, in the execution of their duties, conform to such regulations as may be issued by the Registrar.

Assistant Registrars and Examiners of Title.

111. There shall be paid out of moneys to be provided by Parliament,

Salaries of officers.

To the Registrar a salary of two thousand five hundred pounds a year:

To the Assistant Registrars, clerks, messengers, and servants, such salary as the Lord Chancellor, with the consent of the Commissioners of the Treasury, shall determine:

All incidental expenses of carrying this Act into effect.

112. Her Majesty may, by letters patent under the Great Seal of the United Kingdom, grant to any Registrar, after a service of twenty years, if he shall have then attained the age of sixty years, or in the event of his being disabled by permanent infirmity from the performance of the duties of his office, a pension by way of annuity not exceeding two thirds of his salary, to continue during his life.

Retiring pension of Registrar.

Superannuation of officers other than Registrar.

113. The Lord Chancellor may, with the consent of the Commissioners of Her Majesty's Treasury, order to be paid to any officer or person employed in the Registry Office, other than the Registrar and Examiners of Title, who is disabled by permanent infirmity from the performance of the duties of his office, or who has attained the age of sixty years, and has served in the Registry Office for twenty years, and is desirous of resigning, such superannuation allowance as is authorised with respect to persons in the permanent Civil Service of the State by "The Superannuation Act, 1859."

GENERAL PROVISIONS.

Crown, &c. lands.

114. With respect to lands vested in Her Majesty, her heirs or successors, either in right of the Crown or of the Duchy of Lancaster or otherwise, or vested in any public officer or body (a) in trust for the public service, the public officer or body having the management thereof, if any, or, if none, then such person as Her Majesty, her heirs or successors, shall by writing under Her sign manual appoint, may and shall (whether the land be vested in him or them or not) represent the owner of such lands for all the purposes of this Act, and shall be entitled to such notices, and may make and enter any such application or caveat, and do all such other acts, as any owner of lands for an estate in fee simple is entitled to receive, make, enter, or do under the provisions of this Act; and with respect to lands belonging to the Duchy of Cornwall, such person as the Duke of Corn-

wall (b), for the time being, or as the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, shall in writing appoint, may and shall act as and represent the owner of such lands for all the purposes of this Act, and shall be entitled to receive such notices, and may make and enter any such application or caveat, and do all such other acts as any owner of lands for an estate in fee simple is entitled to receive, make, enter, or do under the provisions of this Act; and it shall be sufficient that any oaths, affidavits, or declarations required by this Act be taken or made by any such public officer, body, or person as in this section mentioned, or by any person nominated in writing by any such public officer, body, or person, and in either case, without any solicitor joining in any affidavit or declaration; and it shall not be necessary for any such public officer, body, or person as in this section mentioned to enter into any such bond as in this Act mentioned, nor to give any security for costs, nor shall they or any of them be liable in damages except for any acts done wrongfully and without reasonable cause.

(a) For example, the Lords of the Admiralty, Her Majesty's Commissioners of Woods and Forests, &c.

(b) H. R. H. the Prince of Wales.

115. Where any married woman is desirous of making any application, giving any consent, or doing any act, or becoming party to any proceeding under this Act, her husband's concurrence shall be required, and she shall be examined apart from her husband touching her knowledge of the nature and effect of the appli-

Provision as to applications made by married women.

Examina-
tions may be
taken under
8 & 4 W. 4.
c. 74.

cation or other act, and it shall be ascertained that she is acting freely and voluntarily; and such examination may be taken by the Court, or by such persons as are authorised to take acknowledgments of deeds by married women under the Act of the Third and Fourth Years of King William the Fourth, chapter seventy-four, "for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance;" and the form and manner in which such examination is to be certified to the Court shall be determined by the General Rules and Orders to be made under this Act: A married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a feme sole (a).

(a) Compare the Declaration of Title Act, s. 36.

Provision
for other
persons
under dis-
ability.

116. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is a minor, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person the committee of whose estates if he were idiot or lunatic would be authorised to act for and represent such person under this Act is of

unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Court of Chancery to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian (a); and where the Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

(a) Compare the Declaration of Title Act, s. 37.

117. The Registrars and Assistant Registrars are hereby empowered to administer oaths and take statutory declarations in lieu of oaths in all proceedings under this Act (a).

Registrars,
&c., may
administer
oaths, &c.

(a) Orders 33, 49.

118. If any land certificate is lost or destroyed, the Registrar may, upon being satisfied of the fact of such loss or destruction, grant a new land certificate in the place of the former one, and shall state upon the face thereof that it is granted in substitution for the former certificate; but no such new certificate shall be of any avail against any person who may have already derived title under the former certificate (a).

As to loss
of land cer-
tificate.

(a) Compare the Declaration of Title Act, s. 28.

119. The Registrar may, upon the delivery up to him of a land certificate, grant a new certificate in the place of the one delivered up (a).

Granting of
new certi-
ficates.

(a) See s. 69.

120. The Lord Chancellor, with the advice and assistance of any two of the Judges of the Court of Chancery, shall from time to time make such General Rules and Orders as he may see fit for carrying the purposes of this

Lord Chan-
cellor to
make Rules
and Orders
for carrying
into effect
purposes of
Act.

Act into effect, and for regulating the times, form and mode of procedure, and generally the practice of the Court in respect of the matters of this Act, and such Rules and Orders may from time to time be rescinded or altered by the like authority; and all such Rules and Orders shall take effect as General Orders of the Court.

As to assignment of duties and appointment of additional clerks.

121. The Lord Chancellor may from time to time assign the duties vested in the Court of Chancery in relation to the matters of this Act to any particular Judge or Judges of that Court, and may appoint such new or additional clerk or clerks as to him may seem necessary for enabling such Judge or Judges duly to execute such duties; and every such additional clerk shall receive out of the Suitors' Fee Fund such salary as the Lord Chancellor may think proper.

Forms to be printed and promulgated.

122. The Registrar shall, with the sanction of the Lord Chancellor, frame, and cause to be printed and promulgated, as he sees occasion, forms of applications, and directions indicating the particulars of the information to be furnished when any application is made to him under this Act, and also forms of instruments, and such other forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act (a).

(a) Order 47: see p. 160.

Seal of Land Registry Office.

123. A seal shall be prepared for the Land Registry Office; and any instrument purporting to be sealed with such seal shall be admissible in evidence.

Addresses of proprietors to be registered.

124. A place of address shall be given to the Registrar for every person in England

whose name is entered on the Register of Title as proprietor of land, of a charge, or as cautioner, or as entitled to receive any notice, or in any other character.

125. The Registrar shall, with the sanction and under the direction of the Lord Chancellor, from time to time frame General Orders (a) for regulating the manner of registering land, the examination of titles, the transfer, transmission, and withdrawal of official notes and caveats, the keeping the registers of title and assurances, and generally for the due execution of the provisions of this Act, and for giving effect to the objects thereof.

Registrar
may frame
General
Orders.

(a) See p. 149.

126. Any General Orders so made by the Registrar with such sanction as aforesaid shall be of the same force as if enacted by Parliament: They may from time to time be rescinded, added to, amended, or altered in like manner.

Such orders
to have
effect as Act
of Parlia-
ment.

Fees.

127. The Registrar shall, with the sanction of the Lord Chancellor, determine the amount of payments to be made with respect to the following matters (a):

Registrar to
determine
amount of
fees

The first entry on the Register of Title of land and charges on land:

The registration of transfers and transmissions of land and charges, and all other matters to be done by the Registrar:

The registration of instruments and the withdrawal of such instruments:

And the Registrar may, with the like sanction, from time to time alter any amounts so determined, but all payments mentioned in this

section shall be paid into the receipt of Her Majesty's Exchequer, and carried to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

(a) Order 46 : see p. 173.

Matters to be considered in determining amount of fees.

128. In determining the amount of fees payable in respect of entries on the Register of Title under this Act, regard shall be had to the following matters :

1. In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value (a) of the land as determined by the amount of purchase money :
2. In the case of the registration of land, or of any transfer of land not upon a sale,—to the value of the land, to be ascertained in such manner as may be directed by General Order :
3. In the case of registration of a charge, or of any transfer of a charge,—to the amount of such charge :

Subject, nevertheless, to the qualifications following :

A maximum amount shall be fixed, and in cases where the value of any land or the amount of any charge exceeds such maximum, fees may be made payable in respect of such excess on such a reduced scale as may be thought expedient :

Where increased labour is thrown on the Registrar by reason of the severance of the parcels of an estate, the entry of a new description of parcels, or of any other matter, an increased sum may be charged.

(a) As to *ad valorem* fees, see Orders 35 and 36.

129. The following rules shall be observed with respect to the collection of fees: Collection of fees.

1. All fees payable in respect of registration shall be received by stamps (a) denoting the amount of fees payable, and not in money:
2. When any fee is payable in respect of a document, a stamp denoting the amount of fee shall be affixed to such document:
3. The Commissioners of Inland Revenue shall provide everything that is necessary for the collection of the monies hereby directed to be paid by stamps.

(a) Orders 44 and 48.

130. The several Acts for the time being in force relating to stamps under the care or management of the Commissioners of Inland Revenue shall apply to the stamps to be provided in pursuance of this Act, and to any document on which such stamps may be impressed, and to collecting and securing the sums of money denoted by stamps, and to preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively. Stamp Acts applied to stamps under this Act.

131. The Lord Chancellor may from time to time fix a scale of fees to be paid to the Examiners of Title, and also of costs to be paid to solicitors or certificated conveyancers, in respect of any service rendered by them in any matter relating to proceedings under this Act; and he may from time to time alter any such Lord Chancellor may fix scale of costs.

scale when fixed, and any scale of costs so fixed may, if the Lord Chancellor thinks fit, be based on an *ad valorem* principle.

Costs of registration may, in certain cases, be raised by mortgage.

132. Where registration is made on the application of parties who cannot make a valid charge on the fee simple, the Court of Chancery may declare that the costs and expenses of registration may be raised by a mortgage of the fee simple, and the same shall be charged accordingly.

Orders to be laid before Parliament.

133. All General Orders, scales of fees, and costs made and fixed under this Act, shall be laid before Parliament forthwith, if Parliament is sitting, or if not, within fourteen days after the next sitting of Parliament.

Proceedings in Court of Chancery.

Applications to Court of be by summons.

134. All applications to be made to the Court of Chancery under this Act may be made by summons in chambers; and any power by this Act given to the Court of Chancery may, subject to any order by the Lord Chancellor as aforesaid (*a*), be exercised by any Judge of the Court sitting in chambers; such Judge shall have the power of directing any matter before him to be argued in Court, and of directing any bill to be filed or action to be brought that may be necessary: Any person aggrieved by an order made by a Judge of the Court of Chancery may appeal to the Court of Appeal in Chancery, in such manner, within such time, and subject to such regulations and limitations, as the Lord Chancellor may prescribe; and any order made by the Court of Appeal in Chancery on appeal shall be subject to reversal or modification by the House of Lords, in like manner as decrees made by the

Court of Chancery; provided that such appeal is made within such time and subject to such regulations as the House of Lords may provide by any Standing Order.

(a) See ss. 62, 121.

135. Any proceeding, matter, or thing whatsoever directed or required by the provisions of this Act to be done or performed by solicitors of the High Court of Chancery, either in the exercise of their profession of solicitors or as attesting witnesses to any deed or instrument for the transfer of land, mortgage, document, or other instrument under the provisions of this Act, or in any other manner whatsoever, shall and may be done, exercised, and performed by any solicitor of the Courts of Chancery of the counties palatine of Durham and Lancaster.

Extension to solicitors of counties palatine of Durham and Lancaster.

Forms.

136. The forms in the schedule hereto shall be used in all matters to which they refer (a): The Registrar, with the sanction of the Lord Chancellor, may from time to time make such alterations in such forms contained in the schedule hereto as he deems requisite: he shall publish any form, when altered, in the *London Gazette*, and upon such publication being made it shall have the same force as if it were included in the schedule to this Act.

Forma.

(a) That is, to all cases of "statutory disposition," under s. 63.

Inspection of Register.

137. Subject to such regulations as may be imposed, and to the payment of such sums as may be fixed by the Registrar with the sanction

Inspection of register.

of the Lord Chancellor, any person registered as proprietor of any estate or interest in any land or charge, and any person authorised by any such proprietor, or by an order of the Court of Chancery, but no other person, may inspect and make copies of and extracts from any register or document in the custody of the Registrar relating to such land or charge (a).

(a) Compare s. 15.

Fraud.

Fraud a misdemeanor.

138. If any person fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any order of the Court of Chancery in relation to registered land, or fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of the entry on the register of any caveat or notice of a charge, or of the erasure from the register or alteration on the register of any caveat or notice of a charge, such person shall be deemed to be guilty of a misdemeanor; and any order procured by fraud, and any act consequent on such order, and any entry, erasure, or alteration so made by fraud, shall be void as between all parties or privies to such fraud (a).

(a) Compare s. 105.

Punishment.

139. Any person convicted of a misdemeanor under the last preceding section shall be liable to imprisonment for any term not exceeding three years, with or without hard labour, or to be fined such sum as the Court by which he is convicted shall think just (a).

(a) Compare s. 105.

Interpreta-

140. In the construction of this Act (except

where the context or other provisions require a different construction), the word "person" shall include Her Majesty, her heirs and successors, and the Duke of Cornwall for the time being, and also a body politic or corporate; the word "possession" shall include receipt of the rents and profits; the word "land" shall include messuages, tenements, and hereditaments, corporeal or incorporeal; and the word "incumbrance" shall mean any legal or equitable mortgage in fee or for any less estate, and also any money secured or charged on land by a trust, or by judgment, decree, or order of any superior Court of law or equity, and also any legacy, portion, lien, or other charge whereby a gross sum of money is secured to be paid, and also any annual or periodical charge which by the instrument creating the same, or by any other instrument, is made repurchasable on payment of a gross sum of money, and also any arrear remaining unpaid of any annual or periodical charge, for payment of which arrear a sale of any land charged therewith might be decreed by a Court of equity.

SCHEDULE.

FORM OF TRANSFER OF LAND.

Dated this day of
 I, *A.B.* of, &c., in consideration of [five thousand pounds] paid to me, grant to *C.D.*, &c.,
 and his heirs, for ever, all [*insert description*].
(Signed and sealed by A.B.)

Witness,
E.F. of, &c.,
 A solicitor of the High Court
 of Chancery, or a certificated
 conveyancer.

FORM OF MORTGAGE.

Dated this day of
 I, *A.B.*, in consideration of [five thousand pounds] lent to me by *C.D.*, grant to *C.D.* and his heirs the hereditaments as described in the schedule, to secure to *C.D.* the payment of the principal sum of [five thousand pounds] on the
 day of and interest at
 five per cent. in the meantime, half yearly.
C.D. shall have power to sell on default of payment of the principal or interest, or any part thereof respectively.

(Signed and sealed, &c.)
 Witness (*as above*).

FORM OF TRANSFER BY INDORSEMENT.

I, the within named *A.B.*, in consideration of [five thousand pounds] paid to me by *C.D.*, transfer to *C.D.* the within mentioned lands.

Dated, &c.

(Signature and seal.)

Witness *(as above)*.

FORM OF TRANSFER OF CHARGE.

I, the within named *A.B.*, in consideration of [five thousand pounds] paid to me, do transfer to *C.D.* the within mentioned mortgage.

Dated, &c.

(Signature and seal.)

Witness, &c.

FORM OF POWER OF ATTORNEY TO MAKE
TRANSFERS.

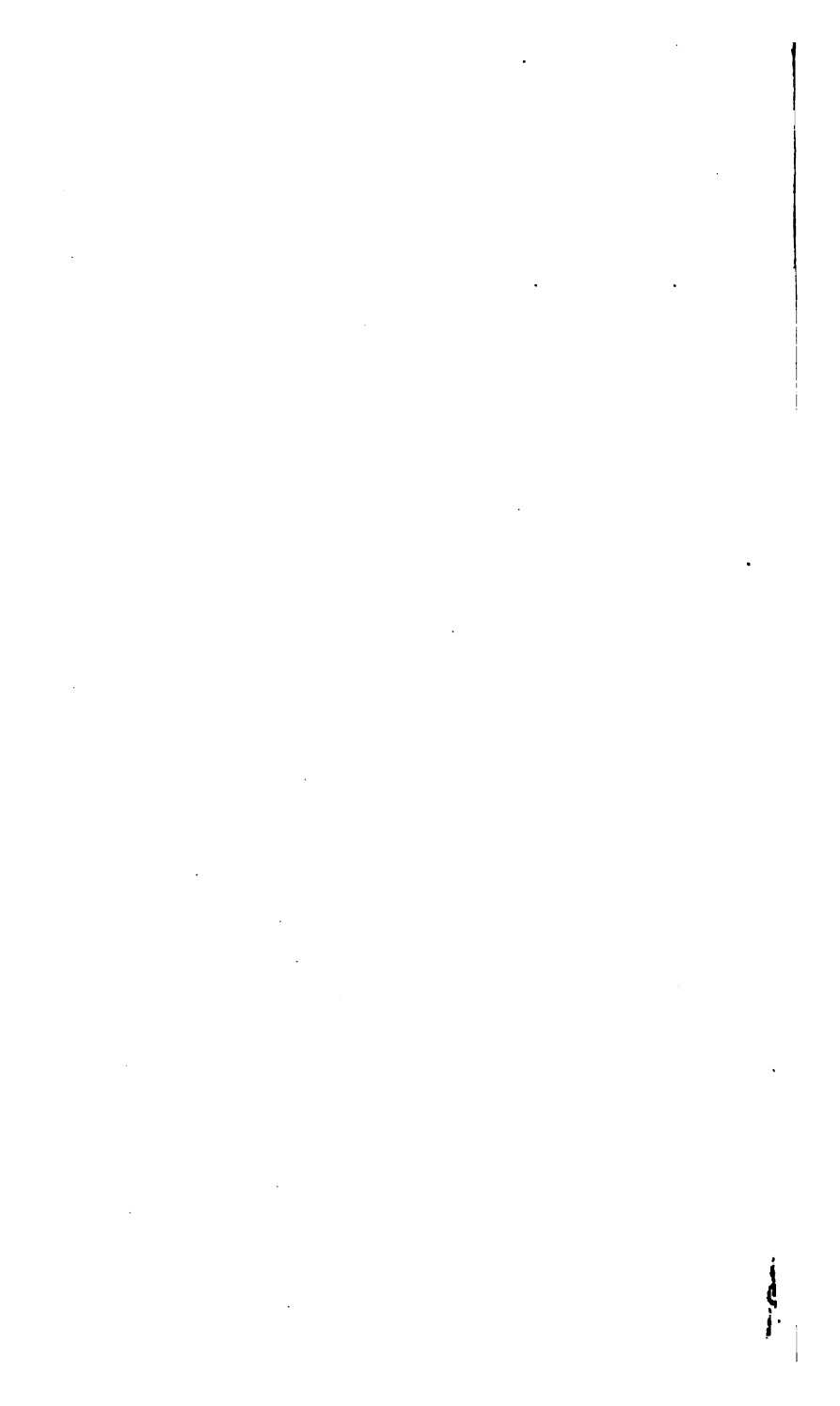
I, *A.B.* do appoint *C.D.* my attorney, to transfer to *E.F.*, absolutely [*or by way of mortgage, as the case may be,*] all my lands as entered and described in the Register of Estates, under No. 129, and my estate therein.

(Signed and sealed.)

Witness,

A.B.,

Solicitor of the Court of Chancery,
or, a certificated conveyancer.



ANNO VICESIMO QUINTO ET VICESIMO
SEXTO VICTORIÆ REGINÆ.

CAP. LXVII.

An Act for obtaining a Declaration of Title.

[29th July, 1862.]

WHEREAS it is expedient to enable persons having interests in land to obtain in certain cases a judicial declaration of their title to the same, so as to enable them to make an indefeasible title to persons claiming under them as purchasers for a valuable consideration: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Every person claiming to be entitled to land in possession for an estate in fee simple, either absolutely or subject to any incumbrances, estates, rights, or interests, vested or contingent, or claiming to have a power of disposing of land for his own benefit for an estate in fee simple in possession, either absolutely or subject to any incumbrances, estates, rights, or interests vested or contingent, and every

Parties claiming to be entitled to land may petition Court of Chancery for declaration of title.

person entitled to apply for the registration of an indefeasible title to the Registrar appointed under any Act which may be passed in the present session for the registration of real estates and the title thereto (a), may apply to the Court of Chancery by petition in a summary way for a declaration of title under this Act (b).

(a) See the Transfer of Land Act, s. 4.

(b) Compare the Irish Act, s. 51.

Petition to set forth particulars affecting title.

2. Every such petition shall state what incumbrances, estates, rights, and interests, if any, the petitioner admits to affect his title, and subject to which he seeks to have his title declared, and shall be in such form as the Court shall by General Order (a) direct.

(a) No such General Orders have hitherto been issued. But see s. 41.

Two persons interested may jointly petition.

3. Any two or more persons claiming to have together such estate or interest in land as would have enabled any one person to petition as aforesaid may join in such a petition, and such proceedings shall be had thereupon as in the case of a single petitioner.

Petition as to copyhold, &c., lands, not admitted.

4. No such petition shall be admitted as to lands of copyhold or customary tenure (a).

(a) This agrees with the Land Transfer Act, s. 3.

Court may require [Registrar] to be served with petition.

5. It shall be lawful for the Court, by General Order or otherwise, if it shall think fit, to require that the Registrar who may be appointed under any Act passed during the present session for the registration of real estates, and the title thereto shall be served with notice of such petition, and the Registrar shall thereupon be made a party to and attend the proceedings on such petition, and

the costs thereby properly incurred shall be paid by the petitioner.

6. The Court on the hearing of any such petition, on being satisfied that the petitioner has proved such a possession, and has stated such a title as, if established, would entitle him to a declaration under this Act, shall make an order for the investigation of the title in the same way as if the petitioner had obtained as vendor a decree for a specific performance of an agreement for sale of the land in question for the estate claimed in his petition.

Court may investigate petitioner's title.

7. If the Court, on such investigation (a), shall not be satisfied that the petitioner has shown such a title as it would have compelled an unwilling purchaser to accept, then it shall dismiss the petition, but subject to the right of appeal herein-after (b) mentioned.

If Court dissatisfied, petition to be dismissed, but subject to appeal.

(a) See the schedule.

(b) See ss. 16—19.

8. In case the Court is satisfied after such an investigation that the petitioner has shown such a title as it would have compelled an unwilling purchaser to accept, it shall, on the conditions herein-after mentioned being complied with, make an order that on some day, not less than three months from the date of the order, a declaration shall be made establishing the petitioner's title, unless in the meantime cause is shown to the contrary; and the Court may enlarge the time for so showing cause as often as it may deem proper.

When investigation is satisfactory, Court may order a declaration of title to be made.

9. No such order shall be made until the petitioner shall have given security to the satisfaction of the Court for payment of all costs, if any, which may be awarded to any person who may oppose the petitioner's right to the declaration prayed for.

Order not to be made until security for costs is given.

10. No such order shall be made until the

Before order

is made,
petitioner to
file affidavit
that all
documents
have been
produced.

petitioner and his solicitor, and any other person whom the Court may require, shall have made and filed an affidavit that to the best of their respective knowledge, information, and belief, all settlements, deeds, documents, instruments, maps, plans, and papers, relating to the title to the land in question, have been produced to the Court, or the cause of their non-production has been fully and fairly explained, and that all facts material to the title have been fully and fairly disclosed to the Court (a): Provided always, that the Court may dispense with such affidavit either from the petitioner or his solicitor when it shall think it reasonable so to do, or may permit the same to be modified as circumstances may seem to require.

(a) Compare the Land Transfer Act, ss. 22, 25, 48.

Notice of
order to be
advertised
in news-
papers.

11. The petitioner after obtaining such order shall give notice of the same by advertisement in such newspapers and at such times as the Court may direct, and in any other manner which the Court may deem expedient for the purpose of informing all persons interested thereof, and as may be directed by any General or special Order in that behalf (a).

(a) Compare the Land Transfer Act, s. 11; and see the schedule to this Act.

Court may
hear peti-
tion against
declaration
of title, or
[to] reserve
rights.

12. Any person may, at any time before the proposed declaration of title has been made, petition the Court in a summary way (a) to be heard against the making thereof, and the Court shall thereupon fix a time for the hearing of such petition and shall, if necessary, enlarge the time for making the declaration until such petition shall have been disposed of.

(a) See the schedule, Order 6.

13. On the hearing of such petition the Court may introduce such restrictions or qualifications in the title sought to be declared as the justice of the case requires, or may reserve the rights of any person or class of persons, or may refuse to make any declaration of title.

On hearing of petition court may qualify or refuse declaration of title or reserve rights.

14. If it shall appear to the Court that all or any of the title deeds relating to the land in question have been lost or destroyed, the Court may, if it shall think fit, reserve the rights of all persons under any such lost or destroyed deeds.

Court may reserve rights of persons under lost deeds.

15. If no petition has been presented against the proposed declaration of title within the time in that behalf limited, or, if, having been presented, the Court shall be of opinion that no sufficient ground has been shown for refusing to make a declaration of title, then the Court shall, after the expiration of the time limited for showing cause, upon being satisfied that the required notices have been duly given, and that all other requisitions have been duly complied with, make a declaration that the original petitioner has such title to the land in question as he sought to establish by his petition, or such title, subject to any restrictions, reservations, or qualifications which it may deem necessary or proper to introduce.

Where court sees no reason for refusal, declaration of title to be made.

16. Any person may, at any time within six months from the making of any such declaration, appeal therefrom to the Court of Appeal in Chancery; and such Court shall on the hearing of the appeal make an order confirming, varying, or annulling the declaration as it may see fit; but if there is no such appeal, then the said declaration shall, at the expira-

Appeal may be made to Court of Appeal within six months after declaration.

tion of the said six months, become final for the purposes of this Act.

Parties may
appeal from
Court of
Appeal to
House of
Lords.

17. Any person may appeal from any such order of the Court of Appeal to the House of Lords at any time within six months from the making thereof, and the said House may make an order confirming, varying, or annulling the said declaration as to them shall seem just; but if there is no such appeal, then the declaration, as approved by the said Court of Appeal in Chancery, shall at the expiration of the said six months become final for the purposes of this Act.

Declaration
of title as
approved by
House of
Lords to be
final.

18. In case of any such appeal as aforesaid to the House of Lords, the declaration of title as finally approved by them shall become final for the purposes of this Act.

Where
Court re-
fuses title,
petitioner
may appeal
to Court
of Appeal
and House
of Lords.

19. In case the Court shall have dismissed the original petition on the ground that the petitioner had not shown such a title as it would have compelled an unwilling purchaser to accept, or if, on the hearing of any petition against the making of the declaration of title prayed for, the Court shall have refused to make any declaration of title, the original petitioner shall have the same rights of appeal to the Court of Appeal in Chancery and to the House of Lords as is herein-before given to any person appealing against a declaration of title actually made.

Declaration
of title not
to be set
aside for in-
formality.

20. The declaration of title, when it has in manner aforesaid become final for the purposes of this Act, shall not be set aside or called in question by reason of any irregularity or informality in the proceedings previous to the making thereof (a).

(a) Compare the Land Transfer Act, s. 21.

21. Every declaration of title made under this Act may, at the option of the person obtaining the same, be registered as an indefeasible title under any Act which may be passed in the present session of Parliament for the registration of real estates and the title thereto (a).

Declaration of title to be registered as an indefeasible title.

(a) See the Land Transfer Act, s. 31.

22. Any person who has obtained in manner aforesaid a final declaration of title shall be entitled to receive from the Court, on payment of the proper fees, and on production of his title deeds for the purpose next hereinafter mentioned, a certificate under the seal of the Court setting forth the title so declared, and further stating that the time for appealing has expired, and such certificate shall be conclusive evidence of the facts therein stated (a).

Certificate of Court to be given to party obtaining final declaration of title.

(a) Compare the Land Transfer Act, ss. 68, 71.

23. Before any such certificate shall be sealed the petitioner shall produce to the Court such of his deeds and muniments of title as the Court shall require, and the same shall be stamped or marked by the officer issuing the certificate in such manner as the Court shall by General Orders direct, for the purpose of showing that a declaration of title has been made as to the land therein comprised, or as to such part thereof as is comprised in the declaration (a).

Production of deeds before sealing of certificate.

(a) Compare the Land Transfer Act, s. 56.

24. Such declaration of title, as soon as it shall have become final for the purposes of this Act, shall in favour of any person thereafter deriving title as a purchaser for valuable con-

Declaration of title to be deemed to have correctly declared land

therein referred to.

sideration of the land therein referred to, or of any part thereof, or of any estate, right, or interest therein, by, from, through, or under the person whose title has been so declared, be deemed and taken to have correctly declared the same, but save as aforesaid such declaration shall have no force or effect whatever as to the title of the land comprised therein (a).

(a) Compare the Land Transfer Act. s. 20.

Court may make separate declarations or certificates of title.

25. Instead of a single declaration of title, or a single certificate, the Court may, on the application of the petitioner, make separate declarations, or give separate certificates as to the title of separate parts of the land referred to in the petition (a).

(a) Compare the Land Transfer Act, s. 28.

Court may cancel original certificate, and give certificates to separate parts of land comprised in cancelled certificate.

26. If for the purpose of a sale or other disposition of the land comprised in any certificate of title, or of any part thereof, the holder of any such certificate shall be desirous of having separate certificates of title relating to separate portions of the land, it shall be lawful for the Court, on petition by such holder, to order his certificate to be cancelled, and in lieu thereof to give to him separate certificates for separate parts of the land comprised in the certificate so cancelled; and every such separate certificate shall refer to and state the date of the cancelled certificate, and shall have the same effect as to the land therein comprised as if it had been given at the time of such date, but no such substitution of certificates shall in any way prejudice or affect the title of any person who shall previously thereto have become entitled to any part of the land

comprised in the original certificate, or any interest in the same.

27. Whenever any such substitution of certificates shall take place the land mentioned in every such separate certificate may be entered upon the Register of Estates with an Indefeasible Title, under any such Act for the registration of real estates and the title thereto as aforesaid; and in that case any transactions relating thereto shall, subject to any regulations to the contrary that may be made by General Order, thenceforth form a separate record in the register, distinguished by a separate number, or in such other manner as the Registrar may determine (a).

Substitution of certificates.

(a) Compare the Land Transfer Act, s. 28.

28. If any certificate of title shall be lost or destroyed, the Court may issue a fresh certificate in lieu of that so lost or destroyed, expressing on the face thereof that it is a duplicate, but no such fresh certificate shall be of any avail against any person who may have already derived title under the original certificate (a).

If certificate of title is lost, a duplicate may be issued.

(a) Compare the Land Transfer Act, s. 118.

29. The declaration of title shall not affect any of the claims, rights, or matters hereinafter mentioned, that is to say:

Declaration of title not to affect certain claims, &c.

Land tax, succession duty, tithe rentcharge, rights of common, rents payable to the Crown, public rights of way, liability to repair highways by reason of tenure, rights of way, watercourses, rights of of water and other easements, or servitudes (a), manorial rights and franchises, leases or agreements for leases

for any term not exceeding twenty-one years where there is (b) occupation under the same.

(a) In the corresponding section of the Land Transfer Act (s. 27), the words "rights of common" are here inserted.

(b) In the Land Transfer Act the word "actual" is inserted in this place.

Registration of lands with declaration of indefeasible title.

30. From and after the registration of any land, as to which any such declaration of title as aforesaid shall have been made, in the hereinbefore mentioned Register of Estates with an Indefeasible Title, such land shall be subject to the provisions of any such Act for the registration of real estates and the title thereto as aforesaid, in the same manner as if the registration thereof had been made by virtue of proceedings duly taken under such last-mentioned Act.

Court may hear petition for recall or variation of declaration of title.

31. If, at any time after any such declaration of title as aforesaid has been made, any person shall consider himself to be aggrieved thereby, it shall be lawful for him to present a petition praying that the same may be recalled or varied in such manner as may be just, and the Court shall thereupon proceed in the hearing of such petition in the same manner as if the same had been presented before the declaration of title had been made, and the Court may, on the hearing of the said petition, annul the declaration and order the certificate or certificates to be given up to be cancelled, or may make such variations therein as it may deem just, and may, if it shall think fit, also direct the registry thereof, if made, to be cancelled; but no proceeding on any such petition shall prejudice or affect the title of

any person who before any such annulling or variation shall have acquired a title under the said declaration as a purchaser for valuable consideration of the said land or of any estate or interest therein.

32. The Court may, on the hearing of any such last-mentioned petition, make any order which it may deem just, restraining the person who has obtained the declaration, and all persons claiming by, through, from, or under him otherwise than as a purchaser for valuable consideration, from in any manner dealing with the said land until such petition shall have been disposed of.

For prevention of dealing with land until petition disposed of.

33. All proceedings on any such petition shall be liable to the same right of appeal as in the case of petitions presented before such declaration of title was made.

Proceedings on petition liable to right of appeal.

34. The Court shall have power to order costs either as between party and party or as between solicitor and client to be paid by and to any person, party to any proceeding under this Act, and to give directions as to the fund out of which such costs shall be paid (a).

Power to Court to order costs.

(a) Compare the Land Transfer Act, s. 61.

35. And whereas it may happen that at the time of making such declaration of title as aforesaid there may be estates, rights, or interests in the land which may not be saved by the declaration, and the persons entitled to such estates, rights, or interests may be damaged by the subsequent alienation of the land for valuable consideration: Be it therefore enacted, that all money received by the person so alienating shall be deemed to have been received by him in trust to invest the same in

Person alienating to invest trust money in purchase of lands to be settled to certain uses.

the purchase of lands to be settled to the uses and on the trusts to and on which the lands so alienated stood limited at the time of such alienation: Provided always, that this clause shall not be deemed to impose any liability on any person who may have received any money on such alienation as a trustee, so far as relates to money which he may have duly applied in execution of the trusts reposed in him.

Provision as
to married
women.

36. Where any married woman is desirous of making any application, giving any consent, or doing any act, or becoming party to any proceeding under this Act, her husband's concurrence shall be required, and she shall be examined apart from her husband touching her knowledge of the nature and effect of the application or other act, and it shall be ascertained that she is acting freely and voluntarily; and such examination may be taken by the Court or such persons as are authorised to take acknowledgments of deeds by married women under the Act of the session holden in the third and fourth years of King William the Fourth, chapter seventy-four, "for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance;" and the form and manner in which such examination shall be certified to the Court shall be determined by the General Rules and Orders to be made under this Act: Provided always, that a married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a feme sole (a).

3 & 4 W. 4,
c. 74.

(a) Compare the Land Transfer Act, s. 115.

37. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is a minor, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act: Provided always, that where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person the committee of whose estates if he were idiot or lunatic would be authorised to act for and represent such person under this Act is of unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Court to appoint a guardian of such person for the purpose of any proceedings, under this Act, and from time to time to change such guardian (a).

Provision
for other
persons
under dis-
ability.

(a) Compare the Land Transfer Act, s. 116.

38. Proceedings under this Act shall not abate or be suspended by any death or transmission or change of interest, but in any such case of death or transmission or change of interest it shall be lawful for the Court, where it sees fit, to require notices to be given to persons becoming interested, or to make any order for discontinuing, suspending, or carrying on the proceedings, or otherwise in

Proceedings
not to abate
by death,
&c.

the purchase of lands to be settled to the uses and on the trusts to and on which the lands so alienated stood limited at the time of such alienation: Provided always, that this clause shall not be deemed to impose any liability on any person who may have received any money on such alienation as a trustee, so far as relates to money which he may have duly applied in execution of the trusts reposed in him.

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Provision
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Proceedings
not to abate
by death,
&c.

relation thereto, which to the Court may appear just (a).

(a) From the Irish Act, s. 76.

Register of
estates,
titles, &c.,
to be kept.

39. A register shall be kept in such place as the Lord Chancellor shall appoint, wherein any person having or claiming to have any estate, right, title, or interest in or to any land, or having or claiming to have any incumbrance thereon, shall be at liberty to enter his name and address, with the name of the county, parish, and township in which such land is situated, in such form as the Chancellor shall order; and when any person shall have made such entry the Court shall not make an order under this Act unless it is satisfied, after such evidence as it shall think sufficient, that notice of the application for such order has been given to such person as shall have made such entry in a reasonable time before such order is actually made.

Power to
Lord Chan-
cellor, &c.,
to make
Rules and
Orders.

40. The Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or of any three of them, shall from time to time make such General Rules and Orders as he may see fit for carrying the purposes of this Act into effect, and for regulating the times and form and mode of procedure, and of giving notices, and generally the practice of the Court in respect of the matters to which this Act relates; and such Rules and Orders may from time to time be rescinded or altered by the like authorities respectively; and all such Rules and Orders shall take effect as General Orders of the Court.

41. Until any General Rules and Orders shall be framed under the last preceding section, the Rules and Orders set forth in the schedule hereto annexed shall be taken to be Rules and Orders of the Court of Chancery, but the same shall be liable to be rescinded or altered as if they had been made by the Lord Chancellor, with such advice and assistance as in the last preceding section is mentioned.

Court of Chancery to adopt rules in schedule until General Rules are framed.

42. It shall be lawful for the Lord Chancellor from time to time to appoint such additional clerks as to him may seem necessary for enabling the Court duly to execute the duties imposed on it; and every such additional clerk shall receive out of the Suitors' Fee Fund such salary as the Lord Chancellor, with the consent of the Lords of the Treasury, may think proper.

Power to Lord Chancellor to appoint additional clerks.

43. All General Rules and Orders made as aforesaid, including all orders for the appointment of any additional clerks, shall, immediately after the making and issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within twenty-one days after the next meeting thereof; and it shall be lawful for either House of Parliament, by any resolution passed within six weeks after such Rules or Orders have been laid before it, to resolve that the same or any part thereof ought not to continue in force, and thereupon the same shall cease to be binding.

Rules and Orders to be laid before Parliament.

44. If in the course of any proceeding before the Court under this Act any person acting either as principal or agent shall, knowingly and with intent to deceive, make or assist or join in or be privy to the making of any

Penalty on making false statement, and suppression of deeds and evidence.

material false statement or representation, or suppress, conceal, or assist or join in or be privy to the suppressing, withholding, or concealing from the Court any material document, fact, or matter of information, every person so acting shall be deemed to be guilty of a misdemeanor, and on conviction shall be liable to be imprisoned for a term not exceeding three years, and either with or without hard labour, or to be fined such sum as the Court by which he is convicted shall award: The order, or declaration of title obtained by means of such fraud or falsehood shall be null and void for or against all persons other than a purchaser for valuable consideration without notice (a).

(a) With this and the following sections (45, 46, 47), compare the Land Transfer Act, ss. 105, 106, 107, 138, 139.

Penalty on
fraudulent
alterations,
&c.

45. If in the course of any proceeding before the Court under this Act any person shall fraudulently forge or alter, or assist in forging or altering, any certificate or other document relating to such land or to the title thereof, or shall fraudulently offer, utter, dispose of, or put off any such certificate or other document, knowing the same to be forged or altered, such person shall be guilty of felony, and upon conviction shall be liable, at the discretion of the Court by which he is convicted, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Conviction
not to affect
civil remedy.

46. No proceeding or conviction for any act hereby declared to be a misdemeanor shall affect any remedy which any person aggrieved

by such act may be entitled to, either at law or in equity, against the person who has committed such act.

47. Nothing in this Act contained shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding, in any Court of law or equity, or in the Court of Bankruptcy; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding.

Enactment of penalty not to exclude obligation to make discovery.

48. In the construction of this Act (except where the context or other provisions of the Act require a different construction) the word "person" shall include a body politic or corporate; the word "possession" shall include receipt of the rents and profits; and the word "land" shall not include any incorporeal hereditaments, but shall include all corporeal tenements and hereditaments not expressly excepted.

Construction of terms, &c., in this Act: "person;" "possession;" "land."

49. This Act shall relate to England only, and shall come into operation on the first day of January, one thousand eight hundred and sixty-three, and may be cited as "The Declaration of Title Act, 1862."

Extent of Act.
Short title.

SCHEDULE.

1. Every petition for a declaration of title shall contain an exact description in their actual state of the lands as to which the declaration is sought, stating particularly the boundaries thereof, and the lands on which the same and every part thereof abut, and, so far as conveniently may be, the names and descriptions of the owners and occupiers of such last-mentioned lands.

2. On the investigation of the title to the lands as to which the declaration is sought, the identity of the lands described in the petition, with the parcels as described in the title deeds, shall be established by affidavit or otherwise, as the Court may deem just.

3. The Court may, if it shall deem it necessary or proper, require the petitioner to lodge in Court a map or plan of the lands in question.

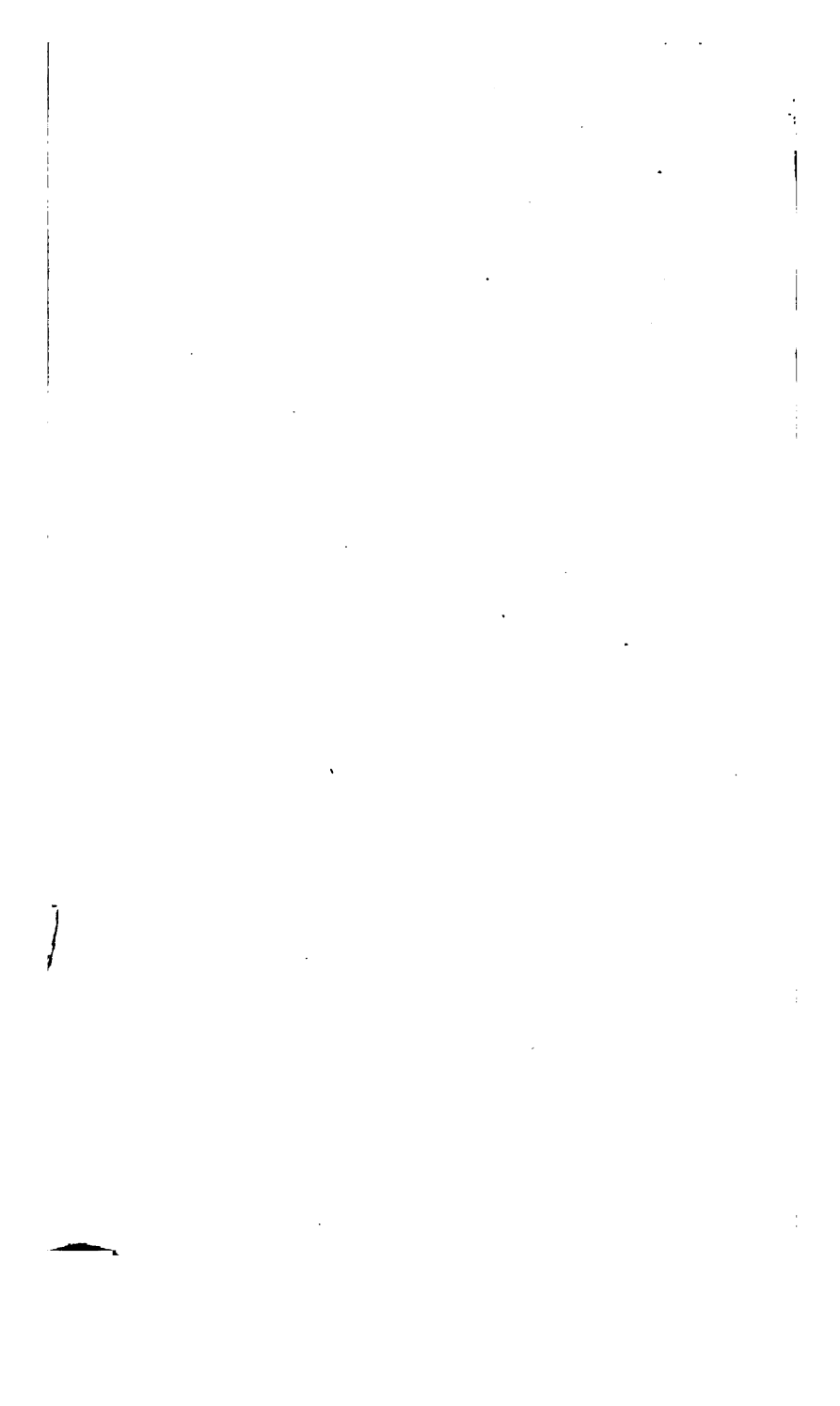
4. The petitioner, after obtaining the order for a declaration of title, shall cause a copy thereof, together with the description of the lands in question, with any engraved or lithographed plan thereof (if any exists) to be served on every adjoining occupier and owner, or on such of them and on such other persons (if any) as the Court may direct to be so served.

5. He shall also cause a copy or copies thereof to be deposited in some office or place, offices or places, to be appointed by the Court on or near to the lands in question, to be accessible at all reasonable times to all persons desirous of examining the same, and notice of every such deposit shall be affixed in some public place or places on or near to the lands in question.

6. Every such copy served on any adjoining occupier or owner, or deposited as aforesaid, shall state that any person wishing to show cause against the making of the proposed declaration may do so by presenting a petition in a summary way to the Court of Chancery at any time before the day appointed for making the proposed declaration.

7. The petitioner, after such deposit shall have been made, shall cause advertisements to be inserted three times at least in such newspapers on such days as the Court shall direct, stating the said order, and stating also where any copy has been so deposited for inspection.

8. Unless the last of such advertisements is made within four weeks next after the date of the order, the time thereby fixed for showing cause against the same shall be enlarged for one calendar month, or such further time as the Court shall direct.



GENERAL RULES AND ORDERS
OF THE
OFFICE OF LAND REGISTRY.

1st OCTOBER, 1862.

OFFICE OF LAND REGISTRY.

GENERAL RULES AND ORDERS.

By virtue and in pursuance of the Act of the 25th and 26th of Victoria, chapter 53, I, BRENT SPENCER FOLLETT, Esquire, one of Her Majesty's Counsel, Registrar of the Office of Land Registry, with the sanction and under the direction of the Right Honourable RICHARD, BARON WESTBURY, Lord High Chancellor of Great Britain, do frame and make the following Orders for regulating the manner of registering land, the examination of titles, the transfer and transmission of titles, the entry and withdrawal of official notes and caveats, and for the due execution of the provisions of the Act, and for giving effect to the objects thereof: And do, with the like sanction, determine that the several payments mentioned in the second schedule to such Orders shall be made with respect to the matters therein mentioned.

(Signed) WESTBURY, C.
B. SPENCER FOLLETT.

**The following Orders shall come into operation
on the 15th day of October, 1862.**

(Signed) WESTBURY, C.

B. SPENCER FOLLETT.

GENERAL RULES AND ORDERS.

Application for Registration of Title.

1. Application for registration of title shall be made in writing, signed by the applicant or his solicitor on his behalf, and shall state the nature of the interest of the applicant, and a general description, in concise terms, of the property the title to which is proposed to be registered, and whether or not the applicant claims the mines and minerals. It shall also state whether the registration applied for is one with or without an indefeasible title.

2. The application shall be left in the Office, and on leaving thereof an appointment shall be made to attend the Registrar thereon, who shall determine whether the application shall be proceeded with, and give any special directions he may think necessary for the prosecution thereof.

Abstracts.

3. Together with or within such time after the date of the application as the Registrar shall fix, an abstract of the title of the applicant shall be left in the Office. Such abstract shall be in such form and contain such information, and be prepared in such manner, in all respects, as the Registrar shall from time to time approve or direct.

4. An affidavit satisfactory to the Registrar shall be left with the abstract, to the effect that such abstract contains a true abstract of all deeds and writings within the period covered by the abstract, and a true statement of all facts and circumstances relating to or affecting the title to the property, and every part thereof, to the best of the deponent's knowledge, information, and belief, and setting forth the means and sources of such knowledge, information, and belief.

5. A schedule of all deeds, probates, pedigrees, certificates, receipts, and other documents to be produced in verifying the abstract and deducing the title, together with an exact copy or the original of every map or plan drawn on or referred to in any abstracted document, shall be left with the abstract.

6. Where any of the muniments of title are in the hands of an incumbrancer or other person not bound to produce the same, the consent of such person to the production of such muniments and the stamping thereof, as required by the 91st section of the Act, must be procured.

7. An accurate map or plan of the property shall be deposited in the Office when directed. Such map or plan shall be made in such form and on such scale and in such manner in all respects as shall from time to time be directed, and shall contain the names of all the owners and occupiers of the lands bounding or immediately adjoining the property.

8. A full and complete schedule or description of the property shall also be made and deposited in the Office at such time and made in such form as shall be directed for that purpose. Such schedule or description shall contain, besides the full particulars of the property, all the boundaries thereof, together with the names and addresses of all the owners and occupiers of lands adjoining to and forming the boundaries thereof, and the persons other than the owners (if any) receiving the rents of such adjoining lands, so far as the same can be ascertained, and the name and address of the lord of the manor, if the lands are situate within or held of any manor.

9. All abstracts and copies of documents deposited in the Office shall be examined and compared with the original title deeds and documents, and all searches which shall be required to be made by the Registrar in the course of the investigation and completion of the title, or with reference to the entry at any time of any title or estate on the register shall be made by such person and in such manner as the Registrar shall direct. Such further or additional abstract and copies of any deeds or instruments shall be made by the applicant and deposited in the Office as shall from time to time be required. The costs and expenses of examining and comparing the abstract and copies with the original

deeds and documents, and of all searches and all fees to be paid to any Examiner of Title or Conveyancing Counsel, shall be settled by the Registrar, and be paid by the applicant.

10. The Registrar shall direct the title to be examined and reported on by one of the Examiners of Title or by one of the Conveyancing Counsel of the Court of Chancery.

Identification of Lands.

11. The Registrar may require that the description, quantities, and boundaries of the lands, and the accuracy of any map or plan, be investigated and ascertained by some person nominated and appointed by himself, who shall, at the expense of the applicant, make such surveys and such investigations and inquiries on or in the neighbourhood of the lands, or otherwise, as the Registrar shall require. Such notices shall be given of such surveys, investigations, and inquiries in such form and to such persons as the Registrar shall direct, and the applicant shall pay the expenses of such surveys, investigations, and inquiries, to such person and in such manner and to such amount as the Registrar shall from time to time direct.

Security for Costs and Expenses.

12. The applicant shall, when required by the Registrar, secure the payment of any costs or expenses, by the undertaking in writing of himself or his solicitor, or by deposit of money, as the Registrar may from time to time direct.

Particulars for Registration.

13. The particulars required by the 7th section of the Act shall be furnished by the applicant in writing in such form as the Registrar shall direct; and any objections made by the applicant to the settlement thereof by the Registrar shall also be made in writing and left in the Office within such time as shall be appointed for that purpose. On such objections being left an appointment shall be obtained for attendance before the Registrar for his consideration thereof.

Notices.

14. If at any time during the investigation of the title any question or doubt or dispute arise, the Registrar may require notice to be given to any person interested in such question or doubt or dispute, to the effect that the same is to be brought before the Registrar, at any time to be mentioned in such notice, for his consideration, and that such person may attend before the Registrar at such time by himself or his solicitor or counsel, and take part in the investigation and settlement of such question, doubt, or dispute. And at the time mentioned in such notice such person may attend accordingly, and take part in the discussion and settlement of such question, doubt, or dispute.

15. Before any title is registered notice of the intention to register the same shall be given by advertisement in the London Gazette and in one London and one local newspaper at least, and in more newspapers if the Registrar shall so direct, and also in colonial and foreign newspapers if the Registrar shall think it necessary or desirable. Such advertisement shall be repeated as often as the Registrar shall direct. Such notice shall contain besides the particulars required by the 11th and 12th sections of the Act, such other particulars as shall be deemed necessary. Notice of the intention to register shall be served on such of the tenants and occupiers of the land as the Registrar shall direct.

16. The form of such notices shall be settled and approved by the Registrar before the same be advertised or served, and a tracing or copy of the map or plan of the land, or of any part or parts thereof, shall be attached to such notices for service, or any of them, if the Registrar shall so direct. Satisfactory proof shall be given of the publication and service of such notices.

Objections to Registration.

17. If any person object to the registration, or claim that the same shall be subject to any condition, qualification, exception, or reservation, such person shall make such objection or claim in writing, and the same shall be signed by the person making the same, or his solicitor, and contain an address in Great Britain at which service on him shall be made, and such objection or claim shall be left at the Office before the expiration

of the time limited by the notice for such purpose. But the time for leaving such objection or claim may be enlarged by the Registrar if he shall so think fit.

18. The applicant or his solicitor, within such time as shall be appointed for that purpose, shall serve every person making any such objection or claim with a notice in writing to the effect that the objection or claim will be heard before the Registrar at the time therein mentioned, such time not being less than two clear days after service of such notice. The applicant or his solicitor shall obtain an appointment before the Registrar for hearing the same at the time mentioned in such notice, and on such hearing the person making such objection or claim may appear and be heard in person or by his solicitor or counsel.

Leaseholds.

19. Notice of every application to register a leasehold estate shall, where practicable, be given to the lessor or grantor, or his representative, and such notice shall be in such form, and shall be served in all respects as the Registrar shall direct.

Caveats before Registration.

20. Every caveat to be lodged with the Registrar under the 35th section of the Act shall contain the address and description of the person on whose behalf the same shall be lodged, and a description of the land to which such caveat relates, and his interest therein, and the name and description of the persons or person against the registration of whose title the same shall be directed, and shall be otherwise in such form as the Registrar shall require, and shall be signed and left at the Office by the person on whose behalf the same shall be lodged, or by his solicitor, and contain an address, in Great Britain, at which notice shall be served; and if any caveat shall be signed by a solicitor his address shall also be inserted. Every caveat shall be renewed after the expiration of five years.

Registration of Title under Order of the Court of Chancery.

21. Where any order of the Court of Chancery shall

direct the Registrar to enter the name of any person on the register as the proprietor of any land with an indefeasible or qualified title, the person requiring such entry shall make an application in writing to the Registrar for such purpose, and lodge the same in the Office, together with an office copy of the order referred to in the 57th section of the Act, and all other documents (if any) necessary to complete the registration; and any such application shall be supported by such other evidence (if any) and be made in such manner and form as the Registrar shall require.

Registration under Judicial Declaration of Title.

22. The persons entitled and requiring to register a declaration of title made under the 25 & 26 Vict. c. 67, shall make an application in writing to the Registrar for that purpose, and lodge the same in the Office, together with such documents as shall be necessary to complete the registration; and such application shall be supported by such evidence, and be made in such manner and form as the Registrar shall require.

Land Certificates and Certificates of Incumbrances.

23. Any person entitled to have and requiring a land certificate, or certificate of incumbrance, shall apply for the same in writing, stating the particular nature of the certificate required, and the number of the estate on the registry. Every application for a special land certificate shall be accompanied by the original land certificate, which shall be left at the Office, in order that such note may be made thereon as is required by section 70 of the Act.

24. If any comparison of, alteration in, addition to, or omission from a land certificate, or certificate of incumbrance shall be at any time required, application for the same shall be made in writing, and such course shall be taken and acts done with respect thereto as the Registrar shall direct.

Attendances at the Office on Sale, &c., of Registered Land.

25. Previously to any attendance at the Office under the 64th section of the Act, an appointment shall be

made for the purpose at least two days before the day fixed for such attendance; and at the time of making such appointment the person making the same shall leave in the Office a concise statement in writing of the nature of the proposed dealing, referring also to the number of the estate on the registry. The applicant shall cause all such notices (if any) to be given, and such acts to be done as the Registrar shall direct.

*Transfers after Registration not completed under
64th Section of the Act.*

26. In case of any transfer, conveyance, or transmission of the estate or interest of any person on the register, by deed or will, or intestacy or bankruptcy, or in any way whatever, or in case of any estate or interest, use, trust, mortgage, charge, lien, right, or title being granted, declared, or arising, or becoming vested, or in any manner created or having come into existence with respect to any land on the register or any mortgage, charge, or incumbrance thereon, any person desiring to register the same shall make an application, signed by such person or his solicitor, for that purpose, and such application shall state the name of the person on the register whose estate or interest may have been so transmitted or affected or dealt with, and the particulars of the property, and the number thereof on the register, and the nature of the new estate or other interest created or declared, or arisen or come into existence therein, and how the same has been created or declared or has arisen or come into existence, and such further or other particulars as may be required by the Registrar.

27. The Registrar shall thereupon require such notices to be served and given, and such proof and evidence as he shall think proper, previous to registering such application.

28. The person so applying shall leave in the Office the statement, signed by himself or his solicitor, of the particular estate or interest or right or title which he requires to be entered on the register; and any objection made by the applicant to the settlement thereof by the Registrar shall be proceeded on in all respects, in like manner as is provided by the 13th Order with reference to the original registration.

Notice under 77th Section of the Act.

29. All notices under the 77th section of the Act shall be signed by the party giving the same, or his solicitor, and contain a proper and sufficient description of and reference to the property on the register, and the name of the person entered on the register, and the date of the instrument, and the names of the parties thereto, and the consideration for the same, and such other particulars as will enable the Registrar to make the necessary entry thereof, and shall contain also an address at which all notices may be served in Great Britain.

Restraint of Conveyance.

30. Every application under the 93rd section of the Act shall be signed by the applicant or his solicitor, and shall state the land or charge to which it relates, and refer to the number of the estate on the register, and shall state the particular restriction sought to be placed on the register, and such other particulars as will enable the necessary entry to be made on the register.

31. Any application to withdraw or modify any such restriction shall also be signed by the person making the same, and shall state all necessary particulars, and be supported by satisfactory evidence.

Caution or Caveat after Registration.

32. Every caution or caveat lodged under the 96th section of the Act shall be signed by the party lodging the same, or his solicitor, and shall contain an address in Great Britain at which such party is to be served with the notice referred to in the 98th section, and also a description of the land or charge to which the same applies, and his interest therein, and the number of the estate on the register.

Evidence.

33. Affidavits, to be used in the Office, may be sworn before the Assistant Registrar, or a commissioner appointed to take affidavits in the Court of Chancery. The Registrar may, if he think fit, require evidence to be taken *vidē voce* before him, and that any affidavits shall be sworn before himself. All affidavits shall be

filed in the Office, and office copies thereof be taken for use.

34. All documents required to be printed, shall, for the sake of uniformity, be printed on paper or parchment of such size and description as shall be approved of by the Registrar.

Value for the Purposes of the 127th and 128th Sections of the Act.

35. In the case of the registration of land or of any transfer of land on the occasion of a sale, the Registrar may require evidence that the sum mentioned in the instrument of sale as the purchase money is *bonâ fide* the full consideration for which the lands were contracted to be sold, and he may refuse to make such registration until he has been satisfied as to the amount or value of the *bonâ fide* consideration for which such lands were contracted to be sold.

36. In the case of the registration of land or of any transfer of land not upon a sale, and in the case of a land certificate, the value of the land shall, if required by the Registrar, be stated in an affidavit made by or on behalf of the applicant, and may, if the Registrar shall think fit, be ascertained by a computation made by him from the rental of the land, or by such other means as shall be satisfactory to the Registrar, or may be settled by agreement between him and the applicant; and in the case of the registration of any charge or transfer of charge by way of annuity or yearly sum, the value thereof shall be ascertained by the Registrar by affidavit or by such other means as shall be satisfactory to him, or may be settled by agreement.

Removal of Land from the Register.

37. If any registered proprietor of land shall desire to remove the same from the register, he shall make application for that purpose signed by himself, and satisfactory proof shall be given of the consent of all necessary parties to such removal. And previously to such removal, every land certificate or certificate of incumbrance granted with reference to such land shall be delivered up to the Registrar and deposited in the Office.

General Provisions.

38. Any Assistant Registrar may act for the Registrar.

39. All notices required by the Act or these Orders to be served shall be under the seal of the office.

40. Service of notices through the General Post-office shall be deemed good service, if the Registrar shall so direct.

41. All applications to extend the time limited by General Orders for any purpose shall be made to the Registrar, who may extend such time as he may think fit.

42. Substituted service on the solicitor, attorney, or agent of any party shall be deemed good service on such party if the Registrar shall so direct.

43. In all cases the party applying for registration shall produce evidence from the proper officer, showing that all stamp and other duties imposed by any statute have been duly paid and satisfied.

44. Every officer of the Office of Land Registry who shall receive any document to or upon which a stamp shall be affixed or impressed under the Act or these Orders shall, immediately upon the receipt of such document, deface such stamp thereon by writing or impressing upon such stamp the words "Land Registry;" and no document so stamped shall be filed or deemed as finally accepted in the Office until the stamp thereon shall have been so defaced, and it shall be the duty of the party presenting such document to see that such defacement has been duly made.

45. Every application to be made under section 87th of the Act shall be signed by the applicant, and supported by such evidence as the Registrar shall require, and the instrument to which such application shall relate shall be left at the Office at the same time as such application.

Fees.

46. The payments mentioned in the second schedule hereto shall be made.

Forms.

47. The several forms specified in the first schedule to these Orders annexed, for the several purposes therein stated, may be observed and used, with such alterations

as may be necessary to meet the circumstances of any particular case, or as the Registrar shall from time to time authorize or direct.

Stamps.

48. All stamps shall be stamped or affixed at the expense of the parties liable to pay the fees, on or to the parchment or paper on which the proceedings in respect whereof such fees are payable are written or printed, or which may be otherwise used in reference to such proceedings. And where any of such fees are payable in respect of any matter or thing to be done, and it is not customary to use in reference to such matter or thing any written or printed document or paper whereon the stamp could be stamped or affixed, the party or his solicitor requiring such matter or thing to be so done shall make application for the same by a short note or memorandum in writing, and a stamp denoting the amount of the fee so payable shall be stamped on or affixed to such note or memorandum.

Construction of Terms.

49. Wherever the word "solicitor" is used in these Rules the words "certificated conveyancer" shall be deemed to be included, and the word "affidavit" shall include "statutory declaration."

50. The holidays and vacations of the Office shall be the same as those of the Court of Chancery, subject to such orders as the Registrar may from time to time make for the regulation and transaction of the business of the Office, which shall be open daily to the public, except on Sundays, Good Friday, and Christmas Day, and days duly appointed to be kept as days of general fast or thanksgiving.

Incorporeal Hereditaments.

51. All these rules, so far as they are capable of being so applied, shall apply to the registration of the titles to incorporeal hereditaments.

(Signed) WESTBURY, C.

B. SPENCER FOLLETT.

THE FIRST SCHEDULE.

FORMS.

[A.]—*Application for First Registration.*

LAND REGISTRY.

In the matter of the Act of the 25th & 26th of
Victoria, cap. 53.

NOTE—If
mines and
minerals be
not men-
tioned, they
will be
deemed not to
be included,
9 Sect. of
Act.

A.B. of in the county of
[gentleman] being owner of the fee-simple [or,
as the case may be, according to the 4th section of the Act]
of certain lands in the parish of in the county
of known as [or, in the occupation of
or otherwise identified], and [or, but not] the
mines and minerals under the same, hereby requires the
title to such lands to be registered as an indefeasible
title [or, as a title not indefeasible], according to the
terms of the said Act.

The address of *A.B.* for service is in the
parish of in the county of

Dated the day of

(Signed) *A.B.*

[or, *C.D.*

of

Solicitor of the said *A.B.*]

[B.] Description of Lands under the 8th Order.
LAND REGISTRY.

No. _____
In the matter of the Act of 25th & 26th of Victoria, cap. 53, and in the matter of the Application of _____, called or known by the name of _____
of _____, in the County of _____, containing _____, and bounded as follows :
All that Estate in the parish of _____, and bounded as follows :

BOUNDARIES.

N.B.—The boundaries to be described according to the facts. On the North by _____ On the South by _____ On the West by _____ On the East by _____	Occupier of Lands forming Boundary.	Owner of Lands forming Boundary.	Person to whom Rent of Lands forming Boundary is paid.	Of what Manor held, if any, and the Name and Address of the Lord of such Manor.	Remarks.
	(Here insert particulars of boundaries.)				

And which Estate consists of the following Farms :—

Name of Farm.	Quantities.	Occupier.	Under what Lease or Agreement.	Remarks.

Which Farm comprises the following Closes and Pieces of Land :—

Number on Map.	Name of Close.	Quantities.	Whether subject to any Right or Easement.	Remarks.

(And so on with the other Farms.)

And the Estate comprises also the following Lands, in the Occupation of the Applicant [or otherwise, as the case may be].

No. on Map.	Name of Close.	Quantities.	Whether Wood or other Land.	Whether subject to any Right or Easement.	Remarks.

(Signed) A.B.
[or C.D., of _____ Solicitor of the said A.B.]

N.B.—The numbers must refer to the map left in the Office. It must be stated whether mines and minerals are claimed, and if claimed they must be particularly described.
If the property consists of houses in towns, the names of the streets and the numbers of the houses must be given. All rights of way and waters, disputed boundaries (if any), and any matter of liability affecting any of the lands should be stated.

[C.] *Caveat before Registration.*

LAND REGISTRY.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

I, *E.F.*, of in the county of
 [gentleman,] have [or claim to have]
 [here insert the estate or interest in the land which the
 cautioner has or claims to have] in all that estate called
 in the parish of in the county of
 consisting of the following farms, viz.,
 [or all that house No.,
 & c., as the case may be,] and of which of
 is now in possession [or receipt of the rents
 and profits], and am entitled to notice of any application
 that may be made [by of in the county
 of] for registration of the title to the said
 estate or any part thereof [or the said house, or land, as
 the case may be].

My address for service of notice is in the
 parish of in the county of

Dated the day of

(Signed) *E.F.*

[D.] *Notice to Person lodging Caveat.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53, and in the matter of the application of *A.B.*

TAKE NOTICE, That *A.B.* of in
 the parish of in the county of has
 applied for registration of the title to the [insert
 description of land as in caveat], and if you intend to
 appear and oppose such registration you are to enter an
 appearance for that purpose at the Office of Land Re-
 gistry, No. 34, Lincoln's Inn Fields, in the county of

THE FIRST SCHEDULE.

163

Middlesex, on or before the expiration of 10 days from the day on which you are served herewith.

Dated the day of
(Signed) *A.B.*
[or *C.D.*
of
Solicitor of the said A.B.]

To
of



[E.] *Caution after Registration.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

E.F. of in the county of
being interested [*under an agree-*
ment dated the day of 18 , or,
state the nature of interest] in the lands in the parish of
in the county of
registered in the name of of the
parish of in the county of
[or in the mortgage for £ dated the day
of 18 registered in the name of
of the parish of
in the county of on the lands in the parish of
in the county of
or otherwise, as the case may be,] numbered in
the Registry, requires that no disposition of such land
[or charge] shall be made until notice has been served
on him.

The address of *E.F.* for service is at
in the county of

Dated the day of
(Signed) *E.F.*
[or *C. D.*
of
Solicitor of the said E.F.]

[F.] *Notice to Cautioner after Registration.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th and 26th of
Victoria, cap. 53.

TAKE NOTICE, That the caution or caveat lodged by
you in this office on the day of 18 ,
requiring notice to be given to you before the disposition
of the lands registered in the name of of
in the county of and numbered on the
Registry [*copying the terms of the caution or caveat*],
will cease to have effect after the expiration of 21 days
from the date hereof, unless an order to the contrary
be made by the Court of Chancery.

Dated this day of 18 .
(Signed) Registrar.

To
of

[G.] *Notice referred to in Order 15.*

LAND REGISTRY.

No.

Notice to Register.

In the matter of the Act of the 25th and 26th of
Victoria, cap. 53, and in the matter of the appli-
cation of *A.B.* of, &c.

TAKE NOTICE, That the Registrar intends to register
the lands mentioned in the schedule hereto with an in-
defeasible title [*as the property of A.B. of, &c.*
in fee simple, or, as the case may be], at the expiration
of from the date hereof.

AND TAKE NOTICE, If any person objects to such regis-
tration, or claims that the same shall be made with or
subject to any conditions, reservations, or qualifications,
such person may show cause against such registration

before the Registrar at the Office of Land Registry, No. 34, Lincoln's Inn Fields, in the county of Middlesex.

AND TAKE NOTICE, That a map or plan of the lands ** N.B.—Where there are incumbrances this should be inserted unless objected to.*
 [* and a statement of the conditions, reservations, qualifications, and incumbrances, subject to which the registration is proposed to be made,] may be inspected at the Office of Land Registry on any day before the day of next.

AND TAKE NOTICE, That if any person desires to be heard to show cause against such registration, he must, on or before the day of next, send to and lodge in the said Office of Land Registry his objections thereto, or his claim in respect thereof, in writing, with his name and address thereto, stating the nature of such objection or claim.

AND TAKE NOTICE, That if any such objection or claim shall be lodged in the said Office, the person lodging the same shall have further notice given to him, appointing the time at which his objection or claim shall be heard before the Registrar, and such person must attend at the said Office at the time mentioned in such further notice, by himself or by his solicitor or counsel, and show cause, or must otherwise there and then show cause, by affidavit, against the aforesaid registration.

AND TAKE NOTICE, That if no objection to such registration, and no claim in respect thereof, be lodged at the aforesaid Office on or before the said day of next, the Registrar will complete the registration of the said lands with an indefeasible title.

Dated this day of

THE SCHEDULE.

(Signed)

[H.] *Notice under the 14th Order.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th and 26th of Victoria, cap. 53, and in the matter of the application of *A.B.*

TAKE NOTICE, That on the investigation of the title to the lands in the parish of _____ in the county of _____ an application for the registration of the title to which has been made by *A.B.* of _____ a question has arisen as to [*here insert nature of question*]: and take notice, that such question will be brought before the Registrar at the Office of Land Registry on the _____ day of _____ at _____ o'clock, for his consideration, and that you may attend before the Registrar at such time and place, by yourself or your solicitor or counsel, and take part in the investigation and settlement of such question.

Dated this _____ day of _____ 18 .
 (Signed) *A. B.*
 [or *C. D.*
 of
Solicitor of the said A. B.]

To _____
 of _____

[I.] *Objection to Registration.*

LAND REGISTRY.

* N.B.—The objection must bear the same number as the No. on the advertisement or notice.

No.*

In the matter of the Act of the 25th and 26th of Victoria, cap. 53, and in the matter of the application, of *A.B.*

E.F. of _____ hereby gives notice that he objects to the registration of the title to the lands known as _____ [*or, in the occupation of*
, or otherwise identified], situated in the

parish of _____ in the county of _____,
 notice of the intention to register which has been given
 by public advertisement [*or served on him, as the case
 may be*].

The nature of his objection is _____ [*here state
 nature of objection*].

The address of *E.F.* for service is _____ in
 the parish of _____ in the county of _____

Dated this _____ day of _____

(Signed) *E.F.*

[*or C.D.*

of
Solicitor of the said E.F.]

[J.] *Claim on Registration.*

LAND REGISTRY.

No.*

In the matter of the Act of the 25th and 26th of
 Victoria, cap. 53, and in the matter of the
 application of *A.B.*

E.F. of _____ hereby claims that
 the registration of the title to the lands known as
 _____ [*or, in the occupation of _____, or other-
 wise identified*] situate in the parish of _____ in
 the county of _____, notice of the intention to
 register which has been given by public advertisement
 _____ [*or, served on him, as the case may be,*]
 shall be made subject to _____ [*here state nature
 of claim*].

The address of *E.F.* for service is _____ in
 the parish of _____ in the county of _____

Dated the _____ day of _____

(Signed) *E.F.*

[*or C.D.*

of
Solicitor of the said E.F.]

* *N.B.*—The
 claim must
 bear the
 same num-
 ber as the
 No. on the
 advertise-
 ment or
 notice.

[K.] *Notice to Objector to or Claimant on
Registration.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of
Victoria, cap. 53, and in the matter of the
application of *A.B.*

TAKE NOTICE, That the objection [*or claim*] lodged by
you to [*or on*] the registration of the title to the lands
known as [*or, in the occupation of*
or otherwise identified], situate in the parish of
in the county of is appointed to
be heard before the Registrar at the Office of Land
Registry on the day * of at
o'clock, and that you may attend before the Registrar
at such time and place by yourself or your solicitor or
counsel, and there and then show cause by affidavit or
otherwise in support of your objection [*or claim*].

* *N.B.*—Not
less than two
clear days
after service
of notice.

Dated the day of

(Signed) *A.B.*

[*or C.D.*

of

Solicitor of the said A.B.]

To
of



[L.] *Application for Registration of Title under Order
of the Court of Chancery.*

LAND REGISTRY.

In the matter of the Act of the 25th & 26th of
Victoria, cap. 53, and in the matter of the
application of *A.B.*

A.B. of hereby requires the
Registrar of the Office of Land Registry to enter his
name on the register as the proprietor of the lands

Dated the day of 18 .
 (Signed) A.B.
 [or C.D.
 of
 Solicitor of the said A.B.]

LAND REGISTRY.

Dated the _____ day of _____
(Signed) A.B.
[or C.D.
of _____
Solicitor of the said A.B.]

LAND REGISTRY.

A.B. of hereby
requests the Registrar of the Office of Land Registry to

deliver to him, a person named and described in the Record of Title as the owner of an estate or interest in the lands numbered _____ on the register, a land certificate [or a special land certificate, as the case may be].

Dated the _____ day of
 (Signed) A.B.
 [or C. D.
 of
 Solicitor of the said A.B.]

[O.] *Application for Certificate of Incumbrance.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap 53.

E.F. of _____ hereby requests the Registrar of the Office of Land Registry to deliver to him, a person appearing by the Register of Incumbrances to be entitled to [here state nature of incumbrance] on the lands numbered _____ on the register, a certificate of the incumbrance to which he is so entitled.

(Signed) E.F.
 [or C.D.
 of
 Solicitor of the said E.F.]

[P.] *Application by Holder of Land Certificate for additional or amended Certificate.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

A.B. of _____ being the holder of a land certificate of the lands numbered _____ on the register, hereby requests the Registrar of the Office of Land Registry to compare such land certificate with the registry.

(Signed) A.B.
 [or C.D.
 of
 Solicitor of the said A.B.]

[Q.] *Application to register Transfer or Transmission affecting registered Land.*

[Q.] LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

E.F. of having become entitled to or interested in the estate in [or, in the charge on] the lands in the parish of in the county of registered in the name of of and numbered on the register in the manner following [here state shortly the nature of the transferred or transmitted estate according to the 26th Order] hereby requests the Registrar of the Office of Land Registry to register the title accordingly.

Dated the day of

(Signed) *E.F.*

[or *C.D.*

of

Solicitor of the said *E.F.*]

[R.] *Application by Proprietor restraining Transfer or Charge.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

A.B. of hereby directs that no transfer shall be made of or charge created on the lands [or, the charge on the lands, as the case may be,] in the parish of in the county of numbered on the register, of which lands [or charge] he is registered proprietor, unless [here insert nature of restriction having regard to the 93rd section of the Act.]

Dated the day of

(Signed) *A.B.*

[or *C.D.*

of

Solicitor of the said *A.B.*]

[S.] *Application by Persons interested to withdraw or modify Restraint or Transfer.*

LAND REGISTRY.

No.

In the matter of the Act of the 25th & 26th of Victoria, cap. 53.

We *A.B.* of *C.D.* of *E.F.* request that the restriction on transfer of or charge on the lands [*or, of or on the charge on the lands, as the case may be,*] in the parish of in the county of numbered on the register, lodged by *A.B.* [*or, otherwise, as the case may be*] on the day of may be withdrawn or modified in the following manner [*here state nature of the modification, if any, required*]: and we hereby state that our right to make this application arises as follows [*here state applicant's right to apply*].

Dated the

day of

(Signed) *A.B.*

C.D.

E.F.

THE SECOND SCHEDULE.

Fees to be collected by Stamps.

	£	s.	d.
For every warrant for attendance before the Registrar	0	3	0
For the abstract or statement of title when first delivered at the Office.	0	10	0
For examining the abstract of title with the original deeds and documents, if the examination takes place in the Office, and is made by the clerks or officers of the Office, for every hour employed thereon	0	5	0
For filing every affidavit	0	2	6
For every office copy, per folio	0	0	4
For every oath administered in the Office	0	1	6
For every exhibit verified by oath and marked in the Office	0	1	0
For every application to inspect the register or other documents in the Office.	0	5	0
For every extract from or copy of any entry in the register, if not exceeding one folio	0	5	0
For every additional folio or part of a folio	0	2	6
For every caveat before registration	1	0	0
For every caveat or caution after registration	1	0	0
For the first entry on the register of any land, if the value of the same does not exceed 1000 <i>l.</i> , for every 100 <i>l.</i> or fractional part of 100 <i>l.</i> of the value thereof	0	5	0
If the value exceed 1000 <i>l.</i> , but does not exceed 5000 <i>l.</i> , then for the first 1000 <i>l.</i> at the rate aforesaid, and for every additional 100 <i>l.</i> or fractional part of 100 <i>l.</i> of the value thereof beyond the first 1000 <i>l.</i>	0	3	0
If the value exceed 5000 <i>l.</i> , but does not exceed 20000 <i>l.</i> , then for the first 5000 <i>l.</i> at the rate aforesaid, and for every additional 100 <i>l.</i> or fractional part of 100 <i>l.</i> of the value thereof beyond the first 5000 <i>l.</i>	0	2	0

	£	s.	d.
If the value exceed 20,000 <i>l.</i> , then for the first 20,000 <i>l.</i> at the rate aforesaid, and for every additional 100 <i>l.</i> and fractional part of 100 <i>l.</i> of the value thereof beyond 20,000 <i>l.</i>	0	1	0
<i>N.B.—All the above fees for entering the title on the register shall be collected by stamps fixed on the statement mentioned in the 13th Order when finally settled, and must be paid before the entry of the title on the register.</i>			
For the registration of every conveyance, transfer, or transmission of land (not being a mortgage or charge), where the value of the land shall not exceed 1,000 <i>l.</i>	0	5	0
If the same exceed 1000 <i>l.</i> , then for the first 1000 <i>l.</i> at the rate aforesaid, and for every additional 500 <i>l.</i> or fractional part of 500 <i>l.</i> of the value thereof beyond the first 1000 <i>l.</i>	0	1	0
For the registration of every mortgage or charge, or of any conveyance or transfer or transmission of any mortgage or charge, where the principal sum, or, if an annuity or yearly charge, where the value of the annuity or yearly charge, does not exceed 1000 <i>l.</i>	0	2	6
If the same exceed 1000 <i>l.</i> , then for the first 1000 <i>l.</i> at the rate aforesaid, and for every additional 500 <i>l.</i> or fractional part of 500 <i>l.</i> of the amount of such charge, or value of such annuity or yearly charge, beyond 1000 <i>l.</i>	0	0	6
<i>N.B.—All the above fees on registration of any mortgage, charge, conveyance, transfer, or transmission, shall be collected by stamps fixed on the document sent to and lodged in the Office with reference thereto.</i>			
For every notice under the 77th section of the Statute entered on the register	1	0	0
For the execution of every instrument prepared under the provisions of the 64th section of the Act, to be fixed on such instrument	0	7	0

	£	s.	d.
For every instrument delivered to the Registrar, and entered by him on the registry under the provisions of the 83rd section of the Act, not before provided for	0	2	6
For the removal of any land or charge from the register under the provisions of the 34th section of the Act, to be fixed on the notice mentioned in the 37th of the above Rules	1	0	0
For the removal of any registered instrument from the register, or the erasure or cancellation of any official note under the provisions of the 87th section of the Act, to be fixed on the notice mentioned in the 45th of the above Rules	0	7	0
For the entry of any restriction on transferring or charging any land or charge under the provisions of the 93rd section of the Act, to be fixed on the notice mentioned in the 30th of the above Rules	1	0	0
For the removal thereof, to be fixed on the notice mentioned in the 31st of the above Rules	0	7	0
For every original land certificate, if the value of the property comprised therein does not exceed 1000 <i>l</i>	0	7	0
If the value exceed 1000 <i>l</i> . but does not exceed 5000 <i>l</i>	0	15	0
If the value exceed 5000 <i>l</i> . but does not exceed 10,000 <i>l</i>	1	0	0
If the value exceed 10,000 <i>l</i> . but does not exceed 20,000 <i>l</i>	2	0	0
If the value exceed 20,000 <i>l</i> . but does not exceed 40,000 <i>l</i>	3	0	0
If the value exceed 40,000 <i>l</i>	5	0	0
For every qualified or special land certificate under the provisions of the 70th section of the statute, if the value of the property comprised therein does not exceed 1000 <i>l</i>	0	3	6
If the value exceed 1000 <i>l</i> . but does not exceed 5000 <i>l</i>	0	7	6
If the value exceed 5000 <i>l</i> . but does not exceed 10,000 <i>l</i>	0	10	0

	£	s.	d.
If the value exceed 10,000 <i>l.</i> but does not exceed 20,000 <i>l.</i>	1	0	0
If the value exceed 20,000 <i>l.</i> but does not exceed 40,000 <i>l.</i>	1	10	0
If the value exceed 40,000 <i>l.</i>	2	10	0
For every additional certificate by the Registrar under the provisions of the 69th section of the Act, if no alteration be made.	0	5	0
For every such additional certificate, if any alteration in, or addition to, or omission from the original certificate be made by the Registrar	0	10	0
For every new certificate when the original certificate is lost or destroyed	The same fees as on the original certificate.		
For every notice under the seal of the Office	0	1	0

(Signed) WESTBURY, C.

B. SPENCER FOLLETT.

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